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By Nidhi, Advocate



**Judgment No.: 071**  
**Dt.: 19-02-2024**



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## Judgment Deals With

<b>Section/Rule</b>	Section 54 & 107
<b>Authority</b>	Delhi High Court
<b>Case Name</b>	GS Exim International LLP VS Commissioner, Central Excise / (GST) Appeals-I
<b>Dated</b>	08 <sup>th</sup> February, 2024

### Brief Facts:

Petitioner had filed an application seeking refund of GST. The Proper Officer issued a SCN dated 04.08.2020 proposing to reject the refund. Petitioner filed a reply on 12.08.2020 and submitted the same through the online portal. Petitioner has also produced a copy of the reply and the same was also physically supplied to the Adjudicating Authority at the time of hearing of the show cause notice.

Thereafter, the Adjudicating Authority, rejected the application by an order dated 21.08.2020, which led to the petitioner filing an appeal before the Appellate Authority.

A perusal of the Order-in-Appeal dated 09.09.2021 shows that the order does not deal with any of the submissions made by the petitioner. The said order extracts a Board Circular and then in the next paragraph merely holds that in view of the above legal provisions, appellant has not fulfilled the eligibility conditions for taking input tax credit.

### Findings & Decision of the Court:

There is no consideration of the submissions on behalf of the petitioner and the appellate order merely extracts the Board Circular and holds that the eligibility conditions are not complied with. It is not apparent from the order as to why or on what basis findings have been returned that petitioner does not fulfil the eligibility conditions. The order is cryptic and the reasoning is not emanating from the order and there is no specific consideration of the factual matrix or the contentions of the petitioner in the Order-in-Appeal.

Accordingly, the Order-in-Appeal dated 09.09.2021 was set aside & the appeal was restored on the record of the Appellate Authority. The Appellate Authority shall decide the appeal afresh and pass a speaking order after giving an opportunity of personal hearing to the petitioner.

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