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By Nidhi, Advocate



Judgment No.: 083
Dt.: 06-03-2024



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Judgment Deals With

Section/Rule	Section 73
Authority	Delhi High Court
Case Name	M/s. Indochem And Polymers VS Sales Tax Officer Class II, Avato, Ward 207 Zone 11
Dated	21 st February, 2024

Brief Facts:

Petitioner impugns order dated 30.12.2023 whereby the proceedings under Section 73 of the Act have been concluded and a demand has been created against the petitioner.

Contention of the Petitioner:

The Show Cause Notice dated 24.09.2023 was received by the petitioner to which a detailed point-wise reply was submitted. The order dated 30.12.2023 records that no proper reply/explanation has been received from the tax-payer despite sufficient and repeated opportunities which indicates that the taxpayer has nothing to say in the matter. The observation in the impugned order dated 30.12.2023 is not sustainable for the reasons that the reply filed by the petitioner is a detailed reply.

Findings & Decision of the Court:

The proper officer had to at least consider the reply on merits and then form an opinion whether the explanation was sufficient or not. He merely held that no proper reply/explanation has been received which ex-facie shows that proper officer has not even looked at the reply submitted by the petitioner.

Accordingly, impugned order dated 30.12.2023 was set aside. The matter was remitted to the proper officer for re-adjudication of the show cause notice issued under Section 73 of the Act, after giving an opportunity of personal hearing to the petitioner.

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