



# Lawgics

By Nidhi, Advocate



Judgment No.: 090  
Dt.: 15-03-2024



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## Judgment Deals With

Section/Rule	Section 73
Authority	Delhi High Court
Case Name	Max Healthcare Institute Limited VS Union Of India & ORS.
Dated	05 <sup>th</sup> March, 2024

### Brief Facts:

Petitioner impugns order dated 24.12.2023, whereby impugned Show Cause Notice dated 23.09.2023, proposing demand has been confirmed against petitioner. Order has been passed u/s 73 of CGST Act, 2017.

### Contention of the Petitioner:

Detailed reply dated 23.10.2023 was filed to the SCN, however, the impugned order dated 24.12.2023 does not take into consideration the reply submitted by the petitioner and is a cryptic order.

Detailed reply was furnished by the petitioner giving full disclosures under each of the heads of the impugned SCN. The impugned order, however, records that the reply uploaded by the tax payer is not satisfactory.

The observation in the impugned order dated 24.12.2023 is not sustainable for the reasons that the reply filed by the petitioner is a **detailed reply**. Proper Officer had to at least consider the reply on merits and then form an opinion whether the reply was devoid of merits. He merely held that the reply is devoid of merits which ex facie shows that Proper Officer has not applied his mind to the reply submitted by the petitioner.

### Findings & Decision of the Court:

If the Proper Officer was of the view that reply was not satisfactory and further details were required, the same could have been specifically sought from the petitioner, however, the record does not reflect that any such opportunity was given to the petitioner to clarify its reply or furnish further documents/details.

Therefore, the impugned order dated 24.12.2023 was set aside & the matter was remitted to the Proper Officer for re-adjudication. The Proper Officer shall re-adjudicate the SCN after giving an opportunity of personal hearing and shall pass a fresh speaking order in accordance with law.

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