



Lawgics

By Nidhi, Advocate



Judgment No.: 117
Dt.: 23-04-2024



<https://chat.whatsapp.com/Te4VxuhvToe76Us7e5>

**CLICK TO JOIN
WHATSAPP GROUP**

Judgment Deals With

Section/Rule	Section 73
Authority	Madras High Court
Case Name	Tokyo Zairyo (India) Private Limited VS Assistant Commissioner
Dated	02 nd April, 2024

Brief Facts of the Case:

Pursuant to an audit under Section 65 of GST Act, a show cause notice was issued to the petitioner on 30.09.2023. The petitioner replied to the audit report on 28.11.2023. The impugned order was issued thereafter on 29.12.2023 which is challenged on the ground that the petitioner's reply was disregarded

Contention of the Petitioner:

The petitioner's reply was disregarded by describing the reply as an unauthorised reply. The reply was disregarded merely because the petitioner was unable to attend the scheduled personal hearing.

Contention of the Department:

The petitioner failed to produce a separate balance sheet and profit & loss account for the Tamil Nadu branch. In view thereof, the tax demand was confirmed.

Findings & Decision of the Court:

On perusal of the impugned order, it is evident that similar findings were recorded in respect of each audit observation dealt with therein which is that "the unauthorised reply of the tax payer is not accepted as the tax payer has not appeared for personal hearing to sign the reply or to explain their contention."

Thus, it is clear that the petitioner's reply was disregarded by categorising such reply as an unauthorised reply. It is unclear as to why the reply was described as unauthorised. Consequently, such order is unsustainable. Hence, the impugned order dated 29.12.2023 was set aside and the matter was remanded for reconsideration.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.