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By Nidhi, Advocate



Judgment No.: 125
Dt.: 08-05-2024



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Judgment Deals With

Section/Rule	Section 73
Authority	Delhi High Court
Case Name	Dinesh Kumar Varma VS Sales Tax Officer Class II
Dated	22 nd April, 2024

Brief Facts of the Case:

The petitioner impugns order dated 25.12.2023 passed under Section 73 of CGST Act, 2017 whereby a show cause notice dated 21.09.2023 issued by the Sales Tax Officer, Class-II has been adjudicated and a demand of Rs. 15,53,240/- created against the petitioner.

Contention of the Petitioner:

Petitioner was not aware of the said show cause notice and could not file response thereto. Petitioner has become aware of another order dated 17.12.2023, whereby another show cause notice dated 24.09.2023 for the same tax period i.e. July 2017 to March 2018 has been adjudicated and a demand of the exact same amount created against the petitioner.

Findings & Decision of the Court:

Perusal of the order dated 25.12.2023 passed on show cause notice dated 21.09.2023 and order dated 17.12.2023 passed on show cause notice dated 24.09.2023 show that both the show cause notices and orders pertaining to the same tax period i.e. July, 2017 to March, 2018 and both orders have been passed by two different officers but of the same jurisdictional office i.e. AVATO, Ward-93, Zone-B, Delhi. Both the show cause notices create nearly identical demand. The order dated 25.12.2023 creates the demand of Rs. 15,53,240/- and the order dated 17.12.2023 creates a demand of Rs. 15,53,234/-.

Keeping in view the fact that both the show cause notices and orders pertain to the same tax period i.e. July 2017 to March 2018 and raise identical demand by two different officers of the same jurisdiction and further noticing the submission of petitioner that replies could not be filed to the show cause notices, both the orders dated 17.12.2023 and 25.12.2023 were set aside. The proceedings on Show Cause Notices dated 21.09.2023 and 24.09.2023 are clubbed and shall be re-adjudicated by one proper officer in accordance with law.

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