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By Nidhi, Advocate



Judgment No.: 152
Dt.: 09-07-2024



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Judgment Deals With

Proper Officer must consider the reply of the taxpayer on merits before forming an opinion & passing order u/s 73	
Section/Rule	Section 73
Authority	Delhi High Court
Case Name	Future Generali India Insurance Company Limited VS Goods And Service Tax Officer (GSTO) Ward 203
Dated	22 nd May, 2024
Citation	W.P.(C)-7417/2024 & CM APPL. 30942-43/2024

Brief Facts of the Case:

Petitioner impugns order dated 29.04.2024 passed u/s 73 of the CGST Act, 2017, whereby the impugned Show Cause Notice (SCN) dated 09.12.2023 had been disposed of and demand including penalty has been raised against the petitioner.

Contention of the Petitioner:

Petitioner had filed a detailed reply dated 09.01.2024 and an additional reply dated 27.02.2024, however, the impugned order dated 29.04.2024 does not take into consideration the reply submitted by the Petitioner and is a cryptic order.

Findings & Decision of the Court:

Perusal of the SCN dated 09.12.2023 shows that the Department has raised various grounds. To the said SCN, a detailed reply was furnished by the petitioner giving response to each ground with supporting documents. The observation in the impugned order dated 29.04.2024 is not sustainable for the reasons that the reply dated 09.01.2024 and 27.02.2024 filed by the Petitioner are detailed replies with supporting documents. Proper Officer had to at least consider the reply on merits and then form an opinion. He merely held that the reply is not properly replied/filed without any justification which ex-facie shows that Proper Officer has not applied his mind to the reply submitted by the petitioner.

Thus, the impugned order dated 29.04.2024 cannot be sustained and was set aside. The SCN was remitted to the Proper Officer for re-adjudication.

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