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By Nidhi, Advocate



Judgment No.: 161
Dt.: 26-07-2024



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Judgment Deals With

Petitioner should seek remedy through the appropriate statutory process after the competent authority makes a decision and passes an order.

Section/Rule	Section 73
Authority	Kerala High Court
Case Name	M/s. Rathickal Kootaima Trading Limited VS The Superintendent Central Tax And Central Excise
Dated	15 th January, 2024
Citation	WP(C) No. 28803 of 2023

Brief facts of the case:

The petitioner impugned the show cause notice (SCN) in Form GST DRC-01 issued under Sections 73 and 50 of CGST Act, 2017. It avails input tax credit (ITC) on inward supplies and utilizes it for payment of GST on output supplies.

During examination of the GST returns filed by the petitioner for the period from July, 2017 to March, 2020, it was noticed that the petitioner had availed irregular ITC on inward supplies received from registered persons and it had not paid late fee on delayed filing of annual returns. Hence, the SCN was issued. The petitioner had filed reply to the said SCN.

Findings & Decision of the Court:

The question is whether the petitioner had correctly availed the ITC or not and whether the petitioner was required to pay late fee for delayed filing of annual returns.

Since the petitioner has already filed reply to the SCN, it is for the competent authority to decide the issue.

Once the issue has been decided, the petitioner will have remedy as provided under the statute. The SCN issued is neither without jurisdiction nor against law.

Thus, the present writ petition was dismissed.