



Lawgics

By Nidhi, Advocate



Judgment No.: 173
Dt.:16-09-2024



<https://chat.whatsapp.com/Ie4VxuhvToe76Us7e5>

CLICK TO JOIN
WHATSAPP GROUP

Judgment Deals With

The petitioner is not remediless and can seek refund in accordance with law when he was coerced to deposit an amount under protest.

Section/Rule	Section 70
Authority	Delhi High Court
Case Name	Sh. Trilok Chand Sharma VS Union Of India
Dated	05 th September, 2024
Citation	W. P. (C) 12389/2024 & CM APPL. 51554/2024

Brief facts of the case:

The petitioner had received **the summons dated 04.11.2023 under Section 70** of CGST Act, 2017 to appear before the concerned officer on 06.11.2023. Since the petitioner was hospitalized due to cardiovascular diseases and had undergone angioplasty and stenting, and could not appear on 06.11.2023. However, his authorized signatory had attended the office of concerned officer on said date.

It was the Department's allegation that the petitioner had availed inadmissible Input Tax Credit (ITC) and therefore, the same was required to be deposited.

Contention of the Petitioner:

The **petitioner deposited an amount which was orally demanded** by the Department, **under protest.**

After the said deposit was made, **the Department once again issued summons under**

Section 70 of the CGST Act for making further enquiries and called upon the petitioner to appear before the concerned officer on 28.11.2023 along with the documents.

The petitioner had submitted all the documents. His authorized signatory attended the office of the concerned officer on 28.11.2023 as well as on 29.11.2023. On these occasions as well, oral demands were made.

On 29.11.2023, the **petitioner deposited further amount under protest** and also sent an **email dated 02.12.2023 confirming that it deposited the said amount under protest** and would deposit the balance amount, under protest, within 1 month.

The petitioner continued to receive telephonic threats and demands by the officers for depositing the balance amount.

Accordingly, the petitioner deposited a further amount under protest on 29.01.2024.

Thereafter, Department sent a letter dated 02.02.2024 calling upon the petitioner to deposit the duty liability along with applicable interest and penalty at the earliest.

Findings & Decision of the Court:

It is the petitioner's case that the **amount was deposited under coercion** and it had **no outstanding tax liability** that was required to be discharged.

It was noted that the deposits of tax were not made during the course of any raid or while the petitioner or any of his employees were in custody of the Department.

According to the petitioner, he was coerced to deposit the tax demanded under the threat that the registration would be cancelled. Clearly, the petitioner could have availed remedies at the material time in respect of such alleged threats.

However, it was observed that in the event the petitioner claims that it has deposited the tax in excess of his liability, **the petitioner is not remediless and can seek refund in accordance with law.**