



Lawgics

By Nidhi, Advocate



Judgment No.: 177
Dt.:21-09-2024



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Judgment Deals With

Under Section 161 of the CGST Act, 2017, if rectification adversely affects any person, the affected party is required to be provided an opportunity of hearing.

Since the original order adversely affected the petitioner, thus, the third proviso to Section 161 came into picture, and the petitioner should have been given a hearing.

Section/Rule	Section 161
Authority	Orissa High Court
Case Name	M/s. Orissa Stevedores Ltd. Vs Deputy Commissioner Of CT & GST
Dated	07 th August, 2024
Citation	W.P.(C) No.13696 of 2024

Brief facts of the case:

The petitioner had applied for rectification of order dated 30.12.2023 made under section 73 of GST Act, 2017. The application was rejected by order dated 08.04.2023. He was not given opportunity of hearing.

Contention of the Department:

There is no mandate to give hearing on an application for rectification of error apparent on face of the record. Impugned order cannot be said to be adverse to petitioner therefore, there was no question of giving hearing. There was no apparent error and if petitioner was dissatisfied with the assessment, he may prefer appeal. Only if the rectification adversely affects the assessee, is he entitled to hearing. That means, if there is enhancement by the rectification then the assessee is to be heard.

Findings & Decision of the Court:

The petitioner is affected by said order dated 30.12.2023. Hence, he applied for rectification. Section 161 clearly provides for affected person to apply for rectification. The third proviso says, where the rectification adversely affects any person, he is to be given hearing. The authority in already having passed impugned order had decided no rectification was necessary. **That was continuation of the assessee feeling, it stood affected by order dated 30.12.2023.** Appeal against the assessment order would be on merits. That is why the statute provides for rectification. Thus, it was directed that the authority will deal with the rectification application on restoration in accordance with law.

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