



Lawgics

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Judgment No.: 182
Dt.:11-10-2024



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Judgment Deals With

Non-compliance with appellate orders could lead to administrative chaos and erode public confidence in the appeal system.

Section/Rule	Section 161
Authority	Punjab & Haryana High Court
Case Name	M/s. Proxima Steel Forge Pvt. Ltd. VS Union Of India
Dated	03 rd October, 2024
Citation	CWP-21975-2024

Brief facts of the case:

A refund application was filed by the petitioner which was rejected by the then concerned Assistant Commissioner, on the ground of limitation stating that the refund application has been filed after 2 years. The appeal was preferred by petitioner, which came to be allowed by Joint Commissioner vide order dated 29.08.2023.

The Assistant Commissioner, again heard the application and passed an order, wherein, he mentions a letter dated 14.12.2023, sent to the Joint Commissioner seeking clarification on order in appeal, dated 14.12.2023. The Joint Commissioner answered his letter on 29.12.2023, and rejected the same treating it as beyond the scope of Section 161 of the CGST Act. Thereafter, the concerned Assistant Commissioner has again rejected the refund application being time barred vide his order dated 24.01.2024.

Now, the petitioner has challenged the order passed by the Assistant Commissioner dated 24.01.2024.

Findings and Decision of the Court:

The Assistant Commissioner **seems to be asserting his authority over and above the order passed in appeal by the Joint Commissioner**, who has already observed that the application has to be treated within time and has to be decided on merits. However, Assistant Commissioner, a subordinate officer has refused to examine the case on merits and again dismissed the application as time barred. Such an approach adopted by the subordinate officer is the result of the virtual failure of system of hierarchy in the CGST.

If subordinate officers do not comply with the appellate orders, it would be something sort of administrative chaos. Such officers are required to be dealt with by the Department in a strict manner, so that they may not create a precedent for others to start insubordination.

It also reflects in general public faith in filing appeals, which would be wavered if appellate orders are not complied with.

Thus, the order of Assistant Commissioner dated 24.01.2024 was set aside and Commissioner was directed to appoint another officer to deal with the application relating to refund of the petitioner, who would decided it purely on merits.

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