

MONTHLY NEWSLETTER

GST TRACKER

ISSUE: APRIL 2024

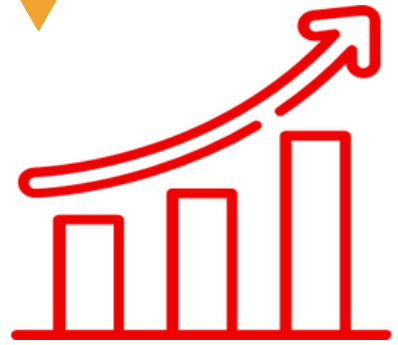


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Case Law Corner



Adv Nidhi Aggarwal
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Section 73: Non speaking Order

Particulars	Details
Name of Petitioner	Ethos Limited
Name of Respondent	Assistant Commissioner Deptt. of Trade & Taxes
Authority	Delhi High Court
Date of Judgement	14.03.2024

Brief facts of the case

Petitioner impugns order dated 23.12.2023, whereby the impugned Show Cause Notice dated 25.09.2023, proposing a demand against the petitioner has been disposed of and a demand of Rs. 1,36,98,144.00 including penalty has been raised under Section 73 of the CGST Act, 2017.

Contention of the Petitioner

A detailed reply dated 08.11.2023 was filed to the Show Cause Notice, however, the impugned order dated 23.12.2023 does not take into consideration the reply submitted by the petitioner and is a cryptic order.

Findings & Decision of the Court

Perusal of the Show Cause Notice shows that the Department has given separate headings under declaration of output tax, excess claim Input Tax Credit, ITC to be reversed on non-business transactions & exempt supplies and under declaration of ineligible ITC. To the said Show Cause Notice, a detailed reply was furnished by the petitioner giving full disclosures under each of the heads. However, the order records that reply uploaded by the taxpayer is not satisfactory

The Proper Officer has opined that the reply is unsatisfactory. The observation in the impugned order dated 23.12.2023 is not sustainable for the reasons that the reply filed by the petitioner is a detailed reply. Proper Officer had to atleast consider the reply on merits and then form an opinion whether the reply was unsatisfactory, incomplete and not duly supported by adequate documents. He merely held that the reply is not clear and unsatisfactory which ex-facie shows that Proper Officer has not applied his mind to the reply submitted by the petitioner. Further, if the Proper Officer was of the view that the reply is unsatisfactory and if any further details were required, the same could have been specifically sought from the petitioner. However, the record does not reflect that any such opportunity was given to the petitioner to clarify its reply or furnish further documents/details.

Accordingly, the impugned order dated 23.12.2023 was set aside & the matter was remitted to the Proper Officer for readjudication. The Proper Officer shall re-adjudicate the show cause notice after giving an opportunity of personal hearing and shall pass a fresh speaking order in accordance with law.

GSTN Updates & Notifications Corner

GSTN Updates March 2024

Date	Subject
08.03.2024	<u>Advisory: Integration of E-Waybill system with New IRP Portals</u>
12.03.2024	Advisory on GSTR-1/IFF: Introduction of New 14A and 15A tables

Source: www.gst.gov.in

Notification/Circulars/Orders issued in the month of March 2024

Central Tax Notifications March 2024

No Central Tax Notification was issued in the month of March 2024

Central Tax (Rate) Notification March 2024

No Central Tax(Rate) Notification was issued in the month of March 2024

Integrated Tax Notification March 2024

No Integrated Tax Notification was issued in the month of March 2024

Integrated Tax (Rate) Notification March 2024

No Integrated Tax (Rate) Notification was issued in the month of March 2024

Circular issued in the month of March 2024

No Circular was issued in the month of March 2024

Orders

No order was issued in the month of March 2024

Removal of Difficulty Orders March 2024

No order was issued in the month of March 2024

Source: www.cbic.gov.in

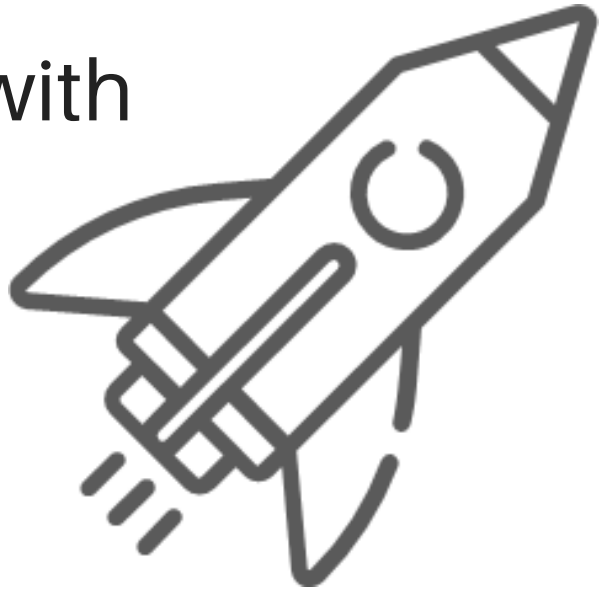
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Business matters

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