

HC: Improper Consideration of Reply ≠ Denial of Hearing – Remedy Lies in Appeal, not Writ

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REFER THE DECISION OF THE HON'BLE DELHI HIGH COURT IN THE CASE OF

Samarth Traders v. Additional Commissioner - [2025] 177 taxmann.com 626 (Delhi)

Samarth Traders, a registered taxpayer, found itself in the middle of a **fake Input Tax Credit (ITC) allegation** under GST. The department issued a notice and alleged wrongful availment of ITC. The assessee approached the Delhi High Court, claiming that there had been a **denial of opportunity of hearing** in the adjudication process.

The Court examined the records and found that the department had indeed **provided the assessee with opportunities** — both to file a **written reply** and for a **personal hearing**. Therefore, the allegation of complete denial of natural justice was **not sustainable**.

However, Samarth Traders argued that although a reply was filed, the **Adjudicating Authority did not consider the reply in its entirety** while passing the order.

The High Court observed that such a plea — that the reply was not properly appreciated or considered in detail — is essentially a **matter of merits**. The correct remedy in such circumstances would not be a writ petition but an **appeal before the Appellate Authority**, which has the jurisdiction to re-examine both facts and law.

Accordingly, the Delhi High Court disposed of the writ petition, clarifying that the assessee is at liberty to raise all its grounds, including the plea of non-consideration of reply, before the Appellate Authority.

// भगवान महावीर का संदेश //

"जीवो और जीने दो" — यही हो हमारा संकल्प।

🙏 जय जिनेन्द्र! 🙏