Inox Wind Limited v. Assessment Unit, Income Tax Department and others

CWP No.3381 of 2024

2024:HHC:14457 | 2024-12-10

Penalty order and consequential demand quashed for denial of a meaningful hearing; remand for documentary response and personal hearing within two months, without a final decision on penalty liability.

271(1)(c) | 156

Division Bench | Tarlok Singh Chauhan, Acting Chief Justice | Bipin Chander Negi

01 FACTS OF THE CASE

Assessment and initiation of penalty proceedings took place on 23 January 2018; the assessment appeal was dismissed on 14 November 2022. A show-cause notice issued on 27 March 2024 required the petitioner's response and supporting documents by 4:30 p.m. on 28 March, with oral arguments fixed for 29 March 2024, when the penalty was decided. Inox Wind challenged this compressed opportunity.

Source: PDF pp.1–2

02 DISCUSSION BY THE HON'BLE COURT

The Department relied on the personal-hearing opportunity stated in the notice. The Court held that the entire documentary-response and oral-hearing exercise had been completed within 48 hours, with less than 24 hours for each step. Reasonable opportunity depends on the circumstances rather than a fixed formula. Applying those principles, the Court found that the petitioner had been deprived of a fair hearing.

Source: PDF pp.2–4

03 JUDICIAL DECISION

The penalty order dated 29 March 2024 and the consequential section 156 demand notice identified as Annexure P-10 were quashed and set aside. The matter was remanded for a meaningful opportunity to respond with documentary evidence and for personal hearing; the entire exercise was to be completed within two months from 10 December 2024. The petition and pending applications were disposed of.

Source: PDF p.4

04 OUTCOME / IN WHOSE FAVOUR

The petitioner succeeded on procedural fairness and obtained a fresh opportunity before the authority. The Court did not decide that penalty could never be imposed, cancel the underlying assessment or quantify a refund.

Source: PDF pp.3–4

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05 EXPERT COMMENTS

A stated hearing date did not establish an effective opportunity — The Department's response was that paragraph 5 of the notice offered personal hearing. The Court accepted that a hearing had formally been offered but examined whether the petitioner could meaningfully use it. The notice-to-documents-to-final-order sequence was completed within 48 hours, with less than 24 hours at each of the identified stages. The ratio therefore concerns the practical adequacy of this opportunity on the stated facts; the existence of a hearing clause alone did not answer the objection. (Source: PDF pp.2–4).

The judgment does not prescribe a universal minimum number of days — The Court expressly says that natural justice and reasonable opportunity depend on the circumstances. Its conclusion that the compressed schedule was unfair should not be converted into a rule that every notice must allow a particular number of hours or that every short deadline automatically invalidates an order. For a comparable matter, the chronology, required documents, proposed hearing and actual ability to present the case would need to be established. This source does not describe the volume of documents or any requested adjournment, and none is invented here. (Source: PDF pp.2–4).

The quashed instruments and the surviving question must be kept separate — The operative relief identifies the 29 March 2024 penalty order and the consequential demand under section 156, Annexure P-10. It does not set aside the 23 January 2018 assessment or the 14 November 2022 appellate dismissal. The penalty issue returns to the authority after a fair response and hearing; there is no final finding that the statutory ingredients of section 271(1)(c) were absent, no quantified penalty deletion on merits and no direction to pay a refund. The procedural success should not be presented as permanent immunity from penalty. (Source: PDF pp.1–4).

The remand carries both response and personal-hearing directions — The authority must afford a meaningful opportunity to file a response with documentary evidence and then provide personal hearing. Both safeguards belong in the account of the remand. The two-month completion direction runs from the judgment date, 10 December 2024; it is a historical court direction, not a newly calculated deadline from the date of this note. The supplied order does not report subsequent compliance or what penalty, if any, followed. Any later conclusion requires the remand record rather than assumption. (Source: PDF p.4).

The source and its textual anomaly remain transparent — The complete four-page order bears neutral citation 2024:HHC:14457 and identifies the coram as Acting Chief Justice Tarlok Singh Chauhan and Justice Bipin Chander Negi. Paragraph 4 prints the statute year as 1968 while referring to section 271(1)(c). That source wording is preserved in the unaltered original and disclosed here, without treating it as a separate enactment or silently changing the judgment. The note reports the provisions and relief actually addressed; subsequent treatment and the present statutory position have not been independently cleared. (Source: PDF pp.1–4).

Source: PDF pp.1–4

SOURCE & VERIFICATION

Original court judgment / order

Full original read; every original page visually inspected.

STATUTORY SCOPE

Provisions and historical figures are recorded only as addressed in this judgment. No current statutory position or subsequent-treatment clearance is represented.

LATER TREATMENT

Appeal, review, recall and stay status has not been independently confirmed.

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