

HC: Order under Section 74 Quashed for Not Granting Personal Hearing

CA Prakash Chandra Jain

P.O. Brajrajnagar
Odisha- 768216
Cell: 94375-41690 / 70087-12242
Email: prakashchjain@yahoo.co.in



REFER THE DECISION OF THE HON'BLE MADHYA PRADESH HIGH COURT IN THE CASE OF

Vishnu Essence v. State of Madhya Pradesh - [2025] 176 taxmann.com 595 (Madhya Pradesh)

FACTS:

A search was conducted under Section 67, and a report was prepared against the assessee.

Relying on the search report, the authority passed an order under Section 74 for tax, interest, and penalty.

The assessee had requested a personal hearing in writing, but the same was not granted.

The assessee challenged the order on the ground that it violated Section 75(4) and natural justice.

Hon'ble High Court Judgement:

The Madhya Pradesh High Court held that granting a personal hearing under Section 75(4) is mandatory where an adverse decision is contemplated.

The order passed without personal hearing was set aside.

The matter was remanded for fresh consideration after giving the assessee an opportunity of hearing.

The Madhya Pradesh High Court held that non-provision of cross-examination vitiated the proceedings.