

HC: Summary of SCN or Order cannot replace proper issuance of SCN and Order under Section 73

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 GAUHATI HIGH COURT IN THE CASE OF

Phanidhar Borsaikia vs. State of Assam Citation: (2025) 32 Centax 287 (Gau.)

FACTS:

The petitioner challenged the demand order issued by the tax authorities under Section 73 of the CGST Act, 2017.

The contention was that only a summary of the show cause notice (SCN) and a summary of the order were served to him in FORM GST DRC-01 and DRC-07, instead of the detailed SCN and a speaking order as mandated by law.

The petitioner argued that this violated the statutory requirement of issuing a proper show cause notice and passing a reasoned order under Section 73 of the CGST Act.

It was claimed that without a detailed SCN and order, the petitioner's right to defend was curtailed, which is against principles of natural justice.

Hon'ble High Court Judgement:

The Gauhati High Court held that the summary of SCN and summary of order cannot substitute the requirement of issuance of a proper SCN and passing of a detailed order as per Section 73.

The Court emphasized that Form DRC-01 and DRC-07 are merely summaries and cannot replace the detailed SCN and speaking order that are required for fair adjudication.

The impugned order was set aside, and the authorities were directed to follow the proper procedure by issuing a valid SCN and a reasoned order.