

HC: SCNs Under Section 74 Quashed for Lack of Allegation of Fraud or Suppression

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

Neyamo Enterprise Solutions (P.) Ltd. v. Commercial Tax Officer – [2025] 180 taxmann.com 480 (Madras)

Facts of the Case

The assessee was issued **show-cause notices (SCNs)** and consequential orders under **Section 74 of the CGST Act**, invoking the **extended period of limitation**.

However, the notices **did not contain any allegation** of *fraud, wilful misstatement, or suppression of facts to evade tax*. The assessee contended that these elements are **mandatory preconditions** for initiation of proceedings under Section 74, and in their absence, the department could proceed only under **Section 73**, which deals with non-fraud cases.

Judgement

The Madras High Court held that **the presence of at least one of the three elements—fraud, wilful misstatement, or suppression of facts—is a sine qua non** for invoking Section 74 and its extended limitation period. Since the SCNs and the orders **did not allege or establish** any of these elements, the Court observed that **the very foundation** for proceeding under Section 74 was missing.

Accordingly, the Court quashed the impugned SCNs and orders, holding that they were unsustainable in law due to absence of the mandatory jurisdictional facts required for invoking Section 74.

// भगवान महावीर का संदेश //

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

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