

HC - The order without SCN (Show Cause Notice) was considered to be valid where Audit Report has been provided to Tax Payer.

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

**Saluja Motors Pvt. Ltd. v. State of H.P. & Others (CWP No. 2293 of 2024),
decided on 21-04.2025**

Case Overview:

- **Petitioner:** Saluja Motors Pvt. Ltd.
- **Respondents:** State of Himachal Pradesh and Others
- **Court:** High Court of Himachal Pradesh, Shimla
- **Decision Date:** April 21, 2025
- **Citation:** 2025: HHC:10413

Legal Issue:

The central issue was whether the non-issuance of a formal notice under Section 73 of the Central Goods and Services Tax (CGST) Act, 2017, invalidated the tax demand raised against Saluja Motors, especially when the audit report had clearly outlined the alleged discrepancies.

Court's Findings:

1. **Audit Report Sufficiency:**

The Court observed that the audit report provided to Saluja Motors explicitly detailed the alleged excess Input Tax Credit (ITC) claims. This comprehensive disclosure ensured that the petitioner was well-informed of the basis of the tax demand.

2. **No Prejudice Due to Non-Issuance of Notice:**

Emphasizing the principle of natural justice, the Court held that the absence of a formal notice did not cause any prejudice to the petitioner. Since the audit report had already conveyed the necessary information, the petitioner had ample opportunity to respond and contest the findings.

3. **Substantial Compliance Over Procedural Lapses:**

The judgment underscored that procedural lapses, such as the non-issuance of a specific notice, do not automatically vitiate tax proceedings if the assessee is not prejudiced and the principles of natural justice are upheld.

Key Takeaways:

- **Emphasis on Substance Over Form:** The Court prioritized the substantive rights of the taxpayer over procedural formalities, indicating that as long as the taxpayer is adequately informed and given a fair chance to respond, minor procedural omissions may not invalidate the proceedings.
- **Audit Reports as Effective Communication:** This judgment highlights the potential of audit reports to serve as effective tools for communicating tax discrepancies, provided they are detailed and transparent.
- **Guidance for Tax Authorities:** While the ruling offers some leeway regarding procedural requirements, it also serves as a reminder for tax authorities to ensure clear and comprehensive communication with taxpayers to uphold the principles of natural justice.

Important Learnings for us:

1. **This judgment is indeed a rare and significant development. It underscores a critical procedural shift in how tax authorities and courts may interpret compliance under GST.**
2. **Every audit memo or report must be treated seriously and responded to in writing, even if it seems preliminary or informal.**
3. **Businesses should review audit observations immediately and document their replies with reasoning and evidence.**
4. **Waiting for a Section 73 notice before preparing a defence may no longer be a viable approach.**