

**NO SHOW-CAUSE NOTICE UNDER SECTION 73 IF EXPLANATION OFFERED BY TAXPAYER IS ACCEPTED BY DEPARTMENT: HC**

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**Facts:**

The petitioner, who operates a hotel, sought input tax credit (ITC) for elevators and air conditioners under GST, asserting that they were essential "plant and machinery" for the hotel's operations. In response, the revenue authorities issued a notice under Section 17(5), disputing the ITC eligibility.

**Tax payer's Reply accepted by Department:**

The petitioner provided a response, which the authorities accepted, and the matter was closed with the issuance of Form GST ASMT-12 under Section 61 of the GST Act.

**Further Action of Department:**

However, despite accepting the explanation, the revenue authorities initiated further proceedings by issuing a show-cause notice under Section 73, citing discrepancies from the earlier Section 61 scrutiny.

**High Court Ruling:**

The court ruled that invoking Section 73 (for the recovery of wrongly availed ITC) was not permissible after the explanation had been accepted under Section 61, as no dissatisfaction was recorded to justify reopening the case.

The show-cause notice and the subsequent actions of the department were deemed illegal and unsustainable. The Show Cause Notice was quashed, affirming the petitioner's right to claim ITC once the explanation was accepted.