

**Part-11-One Pager Snapshot to the Latest Cases**

**CA Arpit Haldia**

<b>S. N.</b>	<b>Section</b>	<b>Case Subject</b>	<b>Case</b>	<b>Held</b>	<b>Cases Referred</b>
1.	<b>Section 73, Section 74 and Section 75</b>	<b>-Only summary issued in DRC-01 with no proper SCN issued</b>  <b>-No Opportunity of being heard given</b>  <b>-Relied upon documents not given</b>	<b>Vishkarma Industries v. State of Jharkhand</b> [2023] 150 taxmann.com 140 (Jharkhand)	<p>-High Court observed that a summary of a show cause notice cannot be a substitute of a proper show cause notice and would entail violation of principles of natural justice. In the absence of clear charges upon which the person so alleged is required to answer, proper opportunity to defend itself stands denied. No opportunity of hearing was granted to the petitioners contrary to the mandate of Section 75(4) and (5). Relied upon documents, which were basis for passing summary order were not supplied to petitioner.</p> <p>In the aforesaid circumstances, the impugned summary of show cause and impugned summary of order contained were quashed.</p>	<b>-Nkas Services Private Limited Vrs. State of Jharkhand -2021</b> SCC Online Jhar 1266.  <b>- M/s Godavari Commodities Ltd. Vrs. State of Jharkhand.</b> [W.P.(T) No. 3908 of 2020  <b>-Natwar Singh Vrs. Director of Enforcement.</b> 2010(13) SCC 255.
2.	<b>Section 18</b>	<b>Extension of time for filing of ITC-01 on changeover from composition scheme to normal</b>	<b>Alpha Polymers v. Commissioner, Central Commissionerate</b> [2023] 150 taxmann.com 139 (Madras)	<p>Petitioner has made a representation for extension of time for filing of ITC-01 before the first respondent and the first respondent instead of passing orders on the said representation, kept the matter pending for nearly a year and thereafter, the second respondent passed the order impugned in this writ petition stating that the petitioner's request was rejected by the first respondent and the said order has been issued with the approval of the first respondent.</p> <p>The High Court set aside the order and remitted to the first respondent, who shall pass appropriate orders, after hearing the petitioner.</p>	
3.	<b>Section 73 and Section 74</b>	<b>Interference of High Court at Show Cause Notice Stage</b>  <b>When Show cause notice is an order by itself and it pre-meditates the issue</b>	<b>Joyous Blocks &amp; Panels (P.) Ltd. v. Assistant Commissioner, Commercial Taxes</b> [2023] 150 taxmann.com 138 (Calcutta)	<p>-If a show cause notice suffers from the vice of lack of jurisdiction, Courts are entitled to interfere with the same.</p> <p>-In the present matter, once inspection of the business premises was completed, a query was raised by the officer The appellants had submitted an elaborate reply for such a query and the authority while issuing the show cause notice has dealt with the reply under the heading "Rebuttal on the factual points".</p> <p>The High Court observed that prima facie SCN appears to be an order and the manner of issuing show cause notice has not been rightly understood by the authority. Partly the appellants have to be blamed because the appellants for the query raised by the authority had misconstrued the scope of the query and proceeded to make elaborate factual submissions. If appellants had restricted their reply only to the extent query raised, this problem could have been averted. Thus, not only the authority committed a mistake in proceeding to reject all the contentions and then issued the show cause notice, equally the appellants also committed a mistake in mentioning facts which were not required to be done pursuant the query raised by the authority.</p> <p>For the above reasons the appeal was allowed and the order passed was set aside with a direction to issue a fresh show cause notice with an open mind without pre-deciding any issue.</p>	<b>Siemens India vs. State of Maharashtra</b> 2007 (207) ELT 168 (SC)

