

Key GST Ruling: Madras High Court Quashes Section 74 Proceedings - Neeyamo Enterprise Solutions Pvt. Ltd. vs CTO (2025)

The Madras High Court on 11 November 2025 delivered a significant judgment clarifying when Section 74 of the GST law can be invoked. The ruling reinforces that **extended limitation and penalty under Section 74 cannot be applied mechanically** without establishing specific statutory ingredients.

(I) Background -

The department issued show cause notices (SCNs) and assessment orders under Section 74 of the TNGST Act, 2017, alleging tax short-payment arising from a surprise inspection.

However, the SCNs did not allege fraud, wilful misstatement, or suppression of facts the essential elements required for invoking Section 74.

(II) High Court's Key Findings -

a) Section 74 requires specific allegations -

Fraud, wilful misstatement, or suppression of facts with intent to evade tax must be clearly alleged. Mere tax short-payment or non-payment does not justify invoking Section 74.

b) SCN must "specify", not "determine" -

The officer used the word "determined" instead of "specified" - indicating pre-determination, violating natural justice.

c) Absence of jurisdictional facts vitiates proceedings -

Since neither the SCN nor the assessment order mentioned fraud/suppression, the Court held the officer lacked jurisdiction to invoke Section 74.

d) Extended limitation cannot be applied mechanically -

The Court relied on CBIC Circular dated 13 December 2023, Supreme Court rulings, and prior GST/Excise jurisprudence holding that: "Suppression" must be intentional and aimed at evading tax - not mere omission.

(III) Final Ruling -

All Section 74 notices and assessment orders were quashed.

However, the department is free to proceed under Section 73 (normal limitation), if applicable.

This judgment serves as a strong reminder that GST authorities must strictly adhere to statutory requirements. Taxpayers should carefully examine SCNs to ensure the absence of jurisdictional defects before responding.