Joint Commissioner (Intelligence & Enforcement) & Anr. vs Lakshmi Mobile Accessories

Show Cause Notice – Clubbing of multiple financial years in a single show cause notice under Section 74 of the CGST Act, 2017 – requirement of separate adjudication for each financial year.

Date of Order: February 5, 2025
Case Law No: GIB-KERHC-2022-12
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts:
The respondent-assessee challenged a show cause notice dated 29.07.2024 issued under Section 74 of the CGST Act demanding tax, interest and penalty for the financial years 2017-18 to 2023-24 through a single consolidated notice. The Single Judge permitted the authority to pass an order for FY 2017-18 within limitation and directed separate adjudication orders for the remaining years. The department filed a writ appeal challenging that direction.

Court Decision:
The Division Bench held that under Section 74 of the CGST Act the determination of tax is linked to the financial year to which the alleged tax evasion relates, and the limitation for passing adjudication orders is computed separately for each financial year from the due date of filing the annual return.

The Court held that although the statute does not expressly prohibit issuance of a consolidated show cause notice, the proper officer should ideally issue separate notices for different financial years because the limitation for adjudication differs for each year. A consolidated notice covering several financial years could prejudice the assessee by curtailing the effective time available for defence and evidence.

Finding no error in the reasoning of the Single Judge, the Court dismissed the writ appeal and upheld the direction permitting separate adjudication orders for each financial year after granting opportunity of hearing.

Cases Referred by Court: CIT v. Simon Carves Ltd., (1976) 4 SCC 435

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