

Taj Garden Retreat vs. State of Kerala & Anr.

Validity of show cause notice issued beyond reasonable period of limitation – Section 45A of the Kerala General Sales Tax Act, 1963.

Date of Order: October 23, 2025
Case Law No: GIB-KERHC-2025-21
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CASE DESCRIPTION / SUMMARY

Facts:

An inspection was conducted at the premises of the assessee on 08.03.2012 in relation to transactions in Indian Made Foreign Liquor and Foreign Made Foreign Liquor. Based on the inspection, a show cause notice dated 20.12.2018 proposing penalty under Section 45A of the Kerala General Sales Tax Act, 1963 was issued. The assessee challenged the notice contending that it was issued after an unreasonable delay and therefore barred by limitation.

Court Decision:

The Division Bench held that even though Section 45A of the Act does not prescribe any specific limitation period for initiating penalty proceedings, such proceedings must be initiated within a reasonable period of time. Referring to other provisions of the Act, the Court observed that the statute prescribes a five-year period for completion of assessments and escaped assessments, which can be treated as a reasonable benchmark.

Since the inspection related to the assessment year 2011-12 and the show cause notice was issued only on 20.12.2018, the notice was issued beyond the reasonable period of five years. The Court further held that repeated notices issued by the department seeking production of records could not extend the limitation period. Accordingly, the writ appeal was allowed, the judgment of the Single Judge was set aside, and the show cause notice was quashed.

Cases Referred by Court:

- *State of Punjab & Others vs. Bhatinda District Co-operative Milk Producers Union Ltd.*
- *W.A. No. 344 of 2017 (Kerala High Court)*
- *W.P.(C) No. 2253 of 2017 (Kerala High Court)*

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