



JUDGEMENT

GST Section 74 Proceedings Not Sustainable if Tax & Interest Settled Before SCN Issuance

In Case Of:	Rays Power Infra Private Limited
Issued By:	Telangana High Court
Order No:	Writ Petition No. 298 of 2024
Order Date:	28 th February 2024

OBSERVATIONS

- The petitioner, a solar electricity generation company, filed returns for July 2017 to March 2019, which were audited by the GST authorities.
- After receiving the audit summary on 14.10.2021, the petitioner promptly paid the additional tax and interest required, and the payment was acknowledged in the final audit report on 10.11.2021.
- Despite this, a show-cause notice was issued on 20.04.2022, which led to the petitioner highlighting their compliance and seeking the dropping of the proceedings, but the demand was confirmed, resulting in the writ petition.
- The department argued that the petitioner's actions constituted willful tax evasion and fell under Section 74(1) due to misstatements and suppression of facts.

FINDINGS

- The primary issue was whether proceedings under Section 74 of the CGST Act were justified after the petitioner had paid the due tax and interest immediately following the audit.
- The Court observed that the petitioner's prompt payment of due tax and interest after the audit was seen as compliance, not evasion and that Section 73 allows for rectifying non-fraudulent tax discrepancies, which applied to the petitioner's actions.
- The Court ruled that Section 74 GST proceedings are not sustainable if the tax and interest due have been deposited according to the audit findings before the issuance of a Show Cause Notice (SCN).

N J JAIN & ASSOCIATES

CHARTERED ACCOUNTANTS

WWW.NJJAIN.COM

info@niteshjain.co.in

079-4002-2628