



JUDGEMENT

Invoking Section 74 Requires Clear Allegation of Fraud or Suppression; Absence of Jurisdictional Facts Renders SCNs Invalid.

Issued By:	Madras High Court
In Case Of:	Neeyamo Enterprise Solutions Pvt Ltd
Order No:	W.P.(MD)Nos. 30453 to 30458 of 2024
Order Date:	11th Nov 2025

FACTS & OBSERVATIONS

- Neeyamo Enterprise Solutions **faced six show cause notices dated 10.05.2024 following a Section 67 inspection** in September 2023, where nine defects were recorded. The notices covered FY 2018-19 to 2023-24 (up to August 2023).
- **Each notice was issued under Sec 74 of the TNGST Act**, proposing tax, interest, and penalty based on the “determined” liability mentioned in the notices.
- The assessee did not submit replies, and the authority passed orders on 11.06.2024 and 18.06.2024 **confirming tax, interest, and penalty under Sec 74**.
- Neeyamo filed writ petitions challenging the orders, **contending that the SCNs contained no allegation of fraud, wilful misstatement, or suppression of facts-conditions mandatory for invoking Section 74**.

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- The Court held that **Section 74** can be invoked only where non-payment or short-payment arises by reason of fraud, wilful misstatement, or suppression of **facts**; the SCNs and orders contained no such allegation or supporting material.
- Use of the word **“determined”** instead of **“specified”** indicated pre-determination, undermining the validity of the SCNs and violating natural justice.
- The Court relied on precedents and CBIC Circular dated 13.12.2023, which clarified that **Section 74 cannot be invoked mechanically and requires material evidence of intent to evade tax.**
- As the jurisdictional facts were absent, **all SCNs and orders under Section 74 were quashed without remand.** The Department was given liberty to proceed, if necessary, under Section 73.

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