

SCN to be issued within 7 days of detention or seizure and not 7 working days: HC

Facts of the case: D.K. Enterprises v. Assistant/Deputy Commissioner (ST) - [2022] 143 taxmann.com 201 (Madras)

The vehicle and goods of the petitioner were intercepted and the department issued physical verification report. Thereafter, no notice was issued within the time frame provided under Section 129 of GST Act, 2017 and no order of detention was passed. The petitioner filed writ petition against the action as no order of detention has been passed without which the consignment would not allowed to be retained by the authorities, upon interception.

Decision of the case:

The Honourable High Court noted that there were serious flaws in procedure followed in the instant case as neither order of detention nor SCN was issued within time as prescribed in section 129. The SCN was to be issued within 7 days of detention or seizure and not 7 working days being clear from amendment brought to clause 2(e) of Circular dated 13-4-2018 vide Circular No.49/23/2018-GST, dated 21-6-2018. Therefore, the Court held that the procedure followed by revenue was contrary to statutory requirements as well as instructions issued and thus, the writ petition was allowed.