

Demand and Recovery

Important Forms

Rohit Kumar Singh
ACA, ACMA, FCS, LLB, DISA (ICAI)



Demand & Recovery

Forms for Demand and Recovery

DRC – 01 – Summary of Show Cause Notice

[FORM GST DRC - 01
[See rule 100 (2) & 142(1)(a)]]

Reference No:

Date:

To

_____GSTIN/Temp. ID

----- Name

_____Address

Tax Period -----

F.Y. -----

Act -

Section / sub-section under which SCN is being issued -

SCN Reference No. ----

Date ----

Summary of Show Cause Notice

(a) Brief facts of the case :

(b) Grounds :

(c) Tax and other dues :

(Amount in Rs.)

Sr. No.	Ta x rat e	Turnov er	Tax Period		Ac t	POS (Place of Suppl y)	Ta x	Intere st	Penalt y	Fe e	Other s	Tota l
			Fro m	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												

DRC – 01A – Part A– Intimation of Tax Ascertained

[FORM GST DRC-01A²²⁰

Intimation of tax ascertained as being payable under section 73(5)/74(5)

[See Rule 142 (1A)]

Part A

No.:

Date:

Case ID No.

To

GSTIN.....Na

me.....

Address.....

Sub.: Case Proceeding Reference No.....- Intimation of liability under section 73(5)/section 74(5) – reg.

Please refer to the above proceedings. In this regard, the amount of tax/interest/penalty payable by you under section 73(5) / 74(5) with reference to the said case as ascertained by the undersigned in terms of the available information, as is given below:

Act	Period	Tax			
CGST Act					
SGST/UTGST Act					
IGST Act					
Cess					
Total					

The grounds and quantification are attached / given below:

You are hereby advised to pay the amount of tax as ascertained above along with the amount of applicable interest in full by, failing which Show Cause Notice will be issued under section 73(1).

You are hereby advised to pay the amount of tax as ascertained above along with the amount of applicable interest and penalty under section 74(5) by, failing which Show Cause Notice will be issued under section 74(1).

In case you wish to file any submissions against the above ascertainment, the same may be furnished by..... in Part B of this Form

Proper Officer

DRC – 01A – Part B – Reply to Communication of payment before SCN

Part B

Reply to the communication for payment before issue of Show Cause Notice
[See Rule 142 (2A)]

No.:

Date:

To
Proper Officer,
Wing / Jurisdiction.

Sub.: Case Proceeding Reference No.....- Payment/Submissions in response to liability intimated under Section 73(5)/74(5) – reg.

Please refer to Intimation ID..... in respect of Case ID.....vide which the liability of tax payable as ascertained under section 73(5) / 74(5) was intimated.

In this regard,

A. this is to inform that the said liability is discharged partially to the extent of Rs. throughand the submissions regarding remaining liability are attached / given below:

OR

B. the said liability is not acceptable and the submissions in this regard are attached / given below:

Authorised Signatory

DRC – 02 – Summary of Statement

[FORM GST DRC -02
[See rule 142(1)(b)]]

Reference No:

Date:

To

_____ GSTIN/ID
----- Name
_____ Address

Tax Period :

F.Y. :

Section /sub-section under which statement is being issued :

SCN Ref. No. -----

Date –

Statement Ref. No. ----

Date –

Summary of Statement :

(a) Brief facts of the case :

(b) Grounds :

(c) Tax and other dues :

(Amount in Rs.)

Sr. No.	Ta x rat e	Turnov er	Tax Period		Ac t	POS (Place of Suppl y)	Ta x	Intere st	Penalt y	Fe e	Other s	Tota l
			Fro m	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Tota l												

DRC – 05 – Intimation of Conclusion of Proceedings

FORM GST DRC- 05

[See rule 142(3)]

Reference No:

Date:

To

----- GSTIN/ID
----- Name
----- Address

Tax Period -----

F.Y. -----

SCN -

Date -

ARN -

Date -

Intimation of conclusion of proceedings

This has reference to the show cause notice referred to above. As you have paid the amount of tax and other dues mentioned in the notice along with applicable interest and penalty in accordance with the provisions of section ---- , the proceedings initiated vide the said notice are hereby concluded.

Signature
Name
Designation

Copy to - -

DRC – 06 – Reply to Show Cause Notice

FORM GST DRC - 06 [See rule 142(4)]

Reply to the Show Cause Notice

1. GSTIN		
2. Name		
3. Details of Show Cause Notice	Reference No.	Date of issue
4. Financial Year		
5. Reply		
<< Text box >>		
6. Documents uploaded		
<< List of documents >>		
7. Option for personal hearing	<input type="checkbox"/> Yes	<input type="checkbox"/> No

8. Verification-

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

DRC – 07 – Summary of Order

[FORM GST DRC-07
[See rule 100(1), 100(2), 100(3) & 142(5)]]

Summary of the order

Reference No. -

Date –

1. Details of order :

(a) Order No. :

(b) Order date :

(c) Financial year :

(d) Tax period: From --- To -----

2. Issues involved :

3. Description of goods / services (if applicable):

Sr. No.	HSN code	Description

4. Section(s) of the Act under which demand is created:

5. Details of demand :

(Amount in Rs.)

Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												

You are hereby directed to make the payment by <Date> failing which proceedings shall be initiated against you to recover the outstanding dues.

DRC – 22 – Provisional Attachment of Property u/s 83

FORM GST DRC - 22

[See rule 159(1)]

Reference No.:

Date:

To

----- Name

----- Address

(Bank/ Post Office/Financial Institution/Immovable property registering authority)

Provisional attachment of property under section 83

It is to inform that M/s ----- (name) having principal place of business at --
----- (address) bearing registration number as ----- (GSTIN/ID), PAN ----- is
a registered taxable person under the <<SGST/CGST>> Act. Proceedings have been launched
against the aforesaid taxable person under section << --->> of the said Act to determine the
tax or any other amount due from the said person. As per information available with the
department, it has come to my notice that the said person has a -

<<saving / current / FD/RD / depository >> account in your << bank/post office/financial
institution>> having account no. << A/c no.>>;

or

property located at << property ID & location>>.

In order to protect the interests of revenue and in exercise of the powers conferred under
section 83 of the Act, I ----- (name), ----- (designation), hereby provisionally
attach the aforesaid account / property.

No debit shall be allowed to be made from the said account or any other account operated
by the aforesaid person on the same PAN without the prior permission of this department.

or

The property mentioned above shall not be allowed to be disposed of without the prior
permission of this department.

Signature

Name

Designation

DRC – 23 – Restoration of Provisionally attached Property/ Bank Account u/s 83

FORM GST DRC - 23

[See rule 159(3), 159(5) & 159(6)]

Reference No.:

Date:

To

----- Name

----- Address

(Bank/ Post Office/Financial Institution/Immovable property registering authority)

Order reference No. -

Date -

Restoration of provisionally attached property / bank account under section 83

Please refer to the attachment of << saving / current / FD/RD>> account in your << bank/post office/financial institution>> having account no. <<----->>, attached vide above referred order, to safeguard the interest of revenue in the proceedings launched against the person. Now, there is no such proceedings pending against the defaulting person which warrants the attachment of the said accounts. Therefore, the said account may now be restored to the person concerned.

or

Please refer to the attachment of property << ID /Locality>> attached vide above referred order to safeguard the interest of revenue in the proceedings launched against the person. Now, there is no such proceedings pending against the defaulting person which warrants the attachment of the said property. Therefore, the said property may be restored to the person concerned.

Thank you



MANU/TL/0346/2020

IN THE HIGH COURT OF STATE OF TELANGANA

W.P. No. 11843 of 2020

Decided On: 13.08.2020

Appellants: **CSK Realtors Ltd.**

Vs.

Respondent: **Asstt. Commissioner of Service Tax, Hyderabad**

Hon'ble Judges/Coram:

M.S. Ramachandra Rao and T. Amarnath Goud, JJ.

ORDER

M.S. Ramachandra Rao, J.

1. Petitioner is a Private Limited Company incorporated under the Companies Act, 1956.
2. It is engaged in the business of construction and sale of flats and villas and is also an assessee on the rolls of the 1st respondent under the Goods and Services Tax Act, 2017 (for short 'the Act').
3. The 1st respondent issued notice intimating the discrepancies in the returns after scrutiny in Form GST ASMT-10, dated 17-12-2019 to the petitioner for the tax periods, 2017-18 to 2018-19 (from July, 2017 to March, 2019). In the said notice he proposed to levy tax of Rs. 3,27,36,879/-.
4. Detailed objections were filed by the petitioner through its letter dated 24-12-2019 before the 1st respondent.
5. Thereupon the 1st respondent got issued show cause notice under Section 73 of the Act on 31-1-2020 in Form GST DRC-01 for the tax periods July, 2017 to March 2018 and April 2018 to March, 2019 proposing to levy CGST + SGST totaling to Rs. 3,27,36,878/-.
6. Petitioner again, filed detailed objections through its letter dated 18-2-2020 and also sought for a personal hearing before the 1st respondent.
7. But the 1st respondent after receiving the said objections of the petitioner on 19-2-2020, did, not, afford any personal hearing to the petitioner, and passed the impugned assessment order dated 13-3-2020 under Section 73 of the Act, and summary of the order in from GST DRC-07, dated 13-3-2020 for the above tax periods demanding the above amount from the petitioner.
8. Apart from contentions on merits, petitioner contends that when there is a specific request from the petitioner to provide personal hearing, it is the duty of the 1st respondent to provide such a personal hearing.
9. Reliance is placed on the judgments of this Court in M/s. Manjunatha Traders, New Firm, Proddatur and Another v. Commercial Tax Officer-II, Proddatur & Others [2018 (66) APSTJ 147] and S. Lalaiah & Co. v. Deputy Commissioner (CT), Sarrornagar

Division Hyderabad & Another [MANU/AP/1129/2007 : 2007 (45) APSTJ 116], and it is contended that the very purpose of personal hearing is to enable the assessing officer to get enlightened or to enlighten the assessee about the nature of the claim made by them, and once the assessee seeks personal hearing, the denial of such opportunity would vitiate the order passed.

10. Sri J. Anil Kumar, Special Counsel for Commercial Taxes appearing for respondents does not dispute the above legal principles.

11. In view of the said legal position, we are of the opinion that the 1st respondent ought to have provided a personal hearing to the petitioner, since the petitioner requested for it specifically in its objections dated 18-2-2020 filed by it to the show cause notice issued on 31-1-2020 to it by the 1st respondent, and that failure of the 1st respondent to do so is a violation of principles of natural justice warranting setting aside of the impugned order.

12. Accordingly, the Writ Petition is allowed; the impugned assessment order passed by the 1st respondent on 13-3-2020 in Form GST DRC-07 for the tax periods 2017-18 and 2018-19 is set aside; the matter is remitted back to the 1st respondent for fresh consideration; the 1st respondent shall provide a personal hearing to the petitioner; and then the 1st respondent shall pass a reasoned order in accordance with and communicate it to the petitioner. No order as to costs.

13. Consequently, miscellaneous petitions, pending if any, shall stand closed.

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MANU/AP/0631/2020

Equivalent Citation: 2021[44] G.S.T.L. 337

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

W.P. No. 15426 of 2020

Decided On: 20.10.2020

Appellants: **S.P.Y. Agro Industries Limited**
Vs.

Respondent: **Union of India and Ors.**

Hon'ble Judges/Coram:

C. Praveen Kumar and J. Uma Devi, JJ.

Counsels:

For Appellant/Petitioner/Plaintiff: S. Appadhara Reddy, Advocate

For Respondents/Defendant: A. Radha Krishna, Advocate

Nature of Issue Involved:

Confiscation of Goods

ORDER

C. Praveen Kumar, J.

1. The present Writ Petition came to be filed seeking issuance of a writ of Mandamus to declare the proceedings of the 5th Respondent vide Order OC. No. 26/2019, dated 29.01.2019 in Form GSTR-ASMT 13 insofar as imposing penalty of Rs. 4,27,19,192/- against the Petitioner and consequential proceedings vide OC. No. 149/2020, dated 12.08.2020, demanding the Petitioner to pay penalty as being illegal, arbitrary and contrary to the provisions of the Central Goods and Services Tax Act, 2017 ['CGST Act'], and the Andhra Pradesh State Goods and Services Tax Act, 2017 ['AP SGST Act'] and violative of Articles 14 and 21 of the Constitution of India.

2. The facts, in issue, are that:

i) The Petitioner herein is a Company and the deponent is the Director of the Company. The said Company is manufacturer of Grain based Extra Neutral Alcohol and also bottles Indian Made Foreign Liquor. The Petitioner after having got itself registered with CGST Act was discharging its GST liability since July 2017 and filing regularly monthly returns in Form GSTR 1 and GSTR 3B.

ii) While things stood thus, a notice came to be issued by the 5th Respondent, dated 15.01.2019, under Section 46 of CGST Act, for not filing the returns in GSTR 3B for the months of February 2018 to December 2018 and accordingly was directed to furnish returns within 15 days falling which the tax liability would be assessed under Section 62 of CGST Act.

iii) It is said that, 5th Respondent, vide its Order, dated 29.01.2019, and the Corrigendum, dated 12.02.2019, issued assessment Order under Section 62

in Form **GSTR ASMT-12** ordering to pay the following amounts.

a) Rs. 1,04,53,566/- towards IGST, Rs. 1,56,94,370/- towards CGST, Rs. 1,56,94,370/- towards GS/UT GST and Rs. 8,76,886/- towards cess;

b) Interest of Rs. 10,13,922/- under IGST, Rs. 14,38,004/- under CGST, Rs. 14,38,004/- under CGST, Rs. 14,38,004/- under SG/UT GST and Rs. 61,670/- cess under Section 50 of the CGST Act/AP GST Act.

3 . The case of the Petitioner is that, he has paid total GST liability of Rs. 4,69,92,664/- for the period of February 2018 to December 2018 and filed GST DRC-03, and having accepted the GST liability, interest and late fees, as per the provisions of CGST Act, **imposing penalty of Rs. 4,27,19,192/-** under Section 122(1) of CGST Act, AP GST Act, is illegal. It is stated that, 5th Respondent has no power to impose such penalty as per Section 62 of CGST Act.

4. The Counsel further pleads that, **to impose penalty under Section 122 of CGST Act, the procedure under Section 73 and 74 is required to be followed.** It is further averred that, **without giving any opportunity or notice** about imposing penalty, passing an order directing the Petitioner to pay Rs. 4,27,19,191/- as penalty is **illegal, improper and incorrect.**

5 . The Counsel further pleads that, 3rd Respondent has issued a **Garnishee Order**, dated 31.07.2020, to the 6th Respondent and also to 7th and 8th Respondents for Rs. 5,53,54,009/-, which includes, **tax, interest and penalty.** Apart from issuing another Garnishee Order by the 4th Respondent to 9th Respondent for Rs. 5,45,71,563/- In other words, the plea of the Petitioner appears to be three fold, viz., **1] Imposing penalty without issuing notice, as violative of principles of natural justice; 2] Jurisdiction on the 5th Respondent to impose penalty; 3] that having collected the amounts by way of tax, interest and attaching properties and collecting the due amount by issuing garnishee orders, directing the Petitioner once again to pay the very same amount would be illegal.**

6. The same is disputed by the Counsel appearing for the Revenue. A counter came to be filed stating that, the Petitioner herein has failed to pay GST liabilities and also file periodical returns i.e. GSTR-3B for various months within the prescribed due dates. It is stated that, though, the Petitioner has filed GSTR-1 for certain months, but failed to file GSTR-3B returns for the corresponding months.

7 . In view of the above, it is urged that, no revenue is actually transferred to the Government, and on the other hand, the customers to whom the Petitioner has issued invoices would avail GST Credit, which the Petitioner has not paid. He further pleads that, failure on the part of the Petitioner **to submit GSTR 3B returns within the prescribed time lead the authorities to recover the** GST liability, which is inclusive of penalty.

8. Referring to the various factual figures, it has been stated in the counter that, the Petitioner has not paid the amounts voluntary. He pleads that, there is no bar on imposition of penalty under Section 122 of CGST Act while issuing assessment order under Section 62 of CGST Act, and there is no room for discussion on Sections 73 and 74 of CGST Act. Having regard to the above, it is pleaded that the Writ Petition is liable to be dismissed.

9. Section 73(1) of CGST Act, reads as under:

"(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

x x x x x x x x

x x x x x x x x

x x x x x x x x"

10. Section 62 of CGST Act, reads as under:

"Assessment of non-filers of returns.

(1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgment taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue."

11. It is to be noted that, Section 122 of CGST Act which deals with "Penalty for certain offences" states that, "wherever there is a violation, a taxable person shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher".

12. It is well settled that, as per the procedure contemplated under Section 73 and 74 of CGST Act, a show-cause notice has to be necessarily issued and same has to be adjudicated following due process of law. Though, the learned counsel for the Petitioner pleaded that, such a notice was never issued, but no effective reply came to be made in the counter denying the said pleading.

13. In-fact, a perusal of the material on record show that, a notice under Form GSTR-3A came to be issued, on 15.01.2019, for filing of GSTR-3B returns for the

period from February to December 2018 under Section 46 of CGST Act, which was received, on 15.01.2019, itself. Without waiting for statutory period stipulated under the Act, assessment Order came to be issued in Form GSTR ASMT-13 under Section 62 of CGST Act, on 29.01.2019, directing the Petitioner to pay huge sum of money including penalty.

14. In view of the circumstances referred to above, more particularly, the order came to be passed without following the principles of natural justice, the Writ Petition is allowed setting aside the impugned Order, dated 29.01.2019, and consequential proceedings, dated 12.08.2020, and the matter is remanded back to the authorities concerned to deal with the same afresh, in accordance with law, after giving an opportunity of hearing to the Petitioner. No Order as to Costs.

15. Consequently, miscellaneous petitions pending, if any, shall stand closed.

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MANU/KA/1857/2020

Equivalent Citation: 2021[44] G.S.T.L. 60, [2020]81GST281(Karn.)

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

Writ Appeal No. 188 of 2020 (T-RES)

Decided On: 03.03.2020

Appellants: **The Union of India, Ministry of Finance and Ors.**
Vs.

Respondent: **LC Infra Projects Pvt. Ltd.**

Hon'ble Judges/Coram:

Abhay Shreeniwas Oka, C.J. and Ashok S. Kinagi, J.

Counsels:

For Appellant/Petitioner/Plaintiff: Neeralgi Jeevanbabu Jagadish, Advocate

Nature of Issue Involved:

Attachment of Properties

JUDGMENT

Abhay Shreeniwas Oka, C.J.

1. Heard learned counsel appearing for the appellant.

2. We have permitted the learned counsel for the appellant to argue on the footing that the case is made out for condonation of delay.

3. Before the learned Single Judge, the challenge was two fold. Firstly, to the notice of demand dated 4th March 2019 (Annexure-J to the writ petition) by which a demand for interest in accordance with sub section (1) of Section 50 of Central Goods and Service Tax Act 2017 (for short 'GST Act') was made.

4. On the basis of the said demand, consequential action was taken by the tax authorities on 7th March 2019 (Annexure-L) by which the account of the respondent-assessee was attached on account of non payment of interest. This is the second challenge in the writ petition.

5. Perusal of the impugned order shows that the learned counsel appearing for the appellant accepted before the learned Single Judge that no notice as contemplated under Section 73 of the GST Act was issued to the respondent-assessee before quantifying interest amount and attaching Bank account of the respondent-assessee. In paragraph 6, the learned Single Judge has held that issuance of a show Cause Notice is sine qua non to proceed with the recovery of interest payable under Section 50 of the GST Act and penalty leviable under the provisions of the GST Act and the Rules. It is further held that interest payable under Section 50 of the GST Act has been determined by the third respondent - Authority without issuing a show Cause Notice which is in breach of the principles of natural justice. Therefore, both the orders at Annexures - J and L were quashed by the learned Single Judge by the impugned order with liberty to the third respondent to proceed in accordance with law.

6. The learned counsel appearing for the appellant invited our attention to sub section (1) of Section 50 of the GST Act and the impugned demand vide Annexure-J. He would urge that the demand of interest is on account belated payment of tax based on the self-assessment. He would, therefore, submit that as the tax was payable as per the self-assessment made by the assessee, it was not necessary to issue a show cause notice to the respondent-assessee as the demand was only as regards to payment of interest under Sub Section (1) of Section 50 of the GST Act. His second submission is that as the demand was not for a tax and only for interest, a notice under Sub Section (1) of Section 73 of the GST Act was not all necessary. He submitted that as a consequence of failure to pay interest, consequential action of attachment of the bank account has been taken. His submission is that Annexure-J could not have been held to be illegal on the ground of breach of the principles of natural justice.

7. We have given careful consideration to the submissions.

8. Sub section (1) of Section 50 reads thus:

"50. (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent, as may be notified by the Government on the recommendations of the Council."

Further, sub section (1) to sub section (3) of Section 73 of the GST reads thus:

"73. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, **he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously** been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

(2) The proper officer shall issue the notice under sub-section (1) at least **three months prior to the time limit specified in sub-section (10) for issuance of order.**

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax."

9. Under sub section (1) of Section 50 of the GST Act, interest can be demanded if an assessee fails to pay the tax or any part thereof within the specified period.

10. On the factual aspect, whether there was a failure on the part of the assessee to pay the tax or any part thereof within the period prescribed, the assessee is entitled to be heard as he could always point out on the basis of the material on record

produced that there was no delay in payment of tax.

11. On plain reading of sub section (1) of Section 73 of the GST Act, it is applicable when any tax has not been paid or short paid. It contemplates that a show Cause Notice is to be issued to the assessee calling upon him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under Section 50 of the GST Act.

12. Assuming that sub section (1) of Section 73 is not applicable, in our view, before penalizing the assessee by making him pay interest, the principles of natural justice ought to be complied with before making a demand for interest under sub section (1) of Section 50 of the GST Act. Consequence of demanding interest and non-payment thereof is very drastic.

13. Therefore, the learned Single Judge rightly held in paragraph 6 of the impugned judgment that issuance of show Cause Notice is sine qua non to proceed with the recovery of interest payable in accordance with sub section (1) of Section 50 of the GST Act.

14. The impugned demand has been set aside only on the ground of the breach of the principles of natural justice by granting liberty to the respondents to initiate action in accordance with law obviously for recovery of interest.

15. Though a perusal of paragraph 4 of the impugned order shows that the same is based on concession made by the learned counsel for the appellant, in paragraph 6 the learned Single Judge has laid down the law.

16. For the reasons which we have recorded earlier, we concur with the ultimate view taken by the learned Single Judge that before recovery interest payable in accordance with Section 50 of the GST Act, a show Cause Notice is required to be issued to the assessee. Hence, no case for interference is made out. The appeal is accordingly dismissed. Interim applications do not survive.

Further, we make it clear that as far as Annexure-K is concerned, as the main demand for interest has been set aside, Annexure-K, which is the order of attachment, also will have to be set aside. We make it clear that we have not gone into the question whether the principles of natural justice are required to be complied with before taking action in accordance with Rule 145 of the Rules framed under the GST Act.

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