



# Lawgics

By Nidhi, Advocate



**Judgment No.: 021**  
**Dt.: 28-11-2023**



<https://chat.whatsapp.com/le4VxuhvToe76Us7e5>

**CLICK TO JOIN  
WHATSAPP GROUP**

## Judgment Deals With

<b>Section/Rule</b>	Section 75(4)
<b>Authority</b>	Madras High Court
<b>Case Name</b>	M/s. Viswkarma Furniture VS Additional Commissioner Grade 2 And Another
<b>Dated</b>	12 <sup>th</sup> April, 2023

### Brief Facts:

The petitioner was served with a SCN dated 07.10.2021 under section 74 of the Act on the basis of the SIB survey report, which was carried out on 13.03.2019 wherein certain goods were found unaccounted. The SCN under section 74 was served on the basis of the SIB report and the petitioner was called upon to show cause as to why the demand may not be quantified and assessed against the petitioner. The date for filing the reply was fixed on 07.11.2021; however, no date for personal hearing, time for personal hearing or venue of the personal hearing was indicated in the said SCN. The petitioner filed a reply to the said SCN wherein the petitioner denied the allegations levelled in the SCN and also requested that no adverse influence be drawn without giving an opportunity of personal hearing. Despite the said request, once again a reminder dated 27.12.2021 was sent to the petitioner wherein the petitioner was called upon to submit the reply by 15.01.2022. In the columns 'date of personal hearing', 'time of personal hearing' and 'venue where the personal hearing will be held', 'NA' was mentioned. The order came to be passed against the petitioner on 14.03.2022. No opportunity of hearing was granted and the assessment has been done only on the basis of the SIB report. The petitioner preferred an appeal, however, there was a delay in filing the appeal, as such, the appeal stood dismissed vide order dated 14.11.2022.

### Contention of Petitioner:

The order dated 14.03.2022 is not merged in the order dated 14.11.2022 as the appeal was never heard on merits. The order passed without giving an opportunity of hearing is contrary to the mandate of section 75(4) of the U.P. G.S.T. Act.

### Findings & Order:

The order dated 14.03.2022 is clearly in violation of the Section 75(4) of the U.P. G.S.T. Act and is also in violation of the principles of natural justice. Thus, following the law as laid down in the cases of Bharat Mint and Allied Chemicals and M/s Mohan Agencies (supra), the order dated 14.03.2022 was quashed. The matter was remanded to the Department to issue a fresh notice to the petitioner in accordance with law.

**We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.**