



# Lawgics

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Judgment No.: 062  
Dt.: 03-02-2024



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## Judgment Deals With

Section/Rule	Section 73
Authority	Madras High Court
Case Name	M/s. KPR Concrete Readymix VS The State Tax Officer
Dated	08 <sup>th</sup> January, 2024

### Brief Facts:

The petitioner provides transportation services to customers and the petitioner paid GST at 12% on such services. The Department issued a notice in Form DRC-01A alleging short payment on the ground that the services provided by the petitioner should be classified under SAC 996601, which attracts GST at 18%. The petitioner replied to the said notice and explained that its services are classifiable under SAC 996511 and also produced relevant documents such as the consignment note. A notice in Form DRC-01 came to be issued thereafter by not accepting the reply of the petitioner.

### Contention of the Department:

The impugned notices are in the nature of an adjudicatory order. The nature of services provided by the petitioner cannot reasonably be classified under any heading other than SAC 996511. Since the impugned notices are in the nature of adjudicatory orders, replying thereto could become an empty formality.

### Findings & Decision of the Court:

In exercise of discretionary jurisdiction, there are limited circumstances in which a show cause notice may be interfered with. The foremost of such circumstances is if the show cause notice was issued without jurisdiction. A show cause notice may also be interfered with if no case is made out even assuming that the statements made in the show cause notice are correct.

In the case on hand, the dispute revolves around the classification of services provided by the petitioner. In the impugned notices, the Department has taken the view that the services provided by the petitioner qualify as rental services which are classifiable under the SAC 996601 because of the extent of control exercised by the person availing of the services.

Upon examining the notices in Form DRC-01, the replies thereto, this case does not fall within the limited category of cases in which a show cause notice may be assailed in a proceeding under Article 226 of the Constitution of India.

Thus, the petition was disposed of by declining to interfere with the impugned order. The petitioner is at liberty to reply to the impugned show cause notices and raise all objections in respect thereof.

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