



If reply to SCN is made even after lapse of time specified therein, but incase it is done before Order is passed, it is to be considered

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In few cases it is seen in certain pockets that just to pass an adverse order, the reply of the taxpayers is not taken on record contesting that the reply was filed after the time which was granted in the SCN. In such cases the question to be answered is *"Whether the proper officer is obliged in law to consider the reply/representation submitted by the assessee in response to the show cause notice issued under Section 73(1) of the SGST Act, 2017 where the reply has not been submitted within the period stipulated in the show cause notice, but before an order under Section 73(9) of the SGST Act, 2017 is passed?"*

It is true that if the period prescribed for giving reply to the show cause notice or filing reply/representation has expired, it is open to the proper officer to presume that assessee has nothing to say in the matter and pass an order under Section 73(9) of the CGST Act, 2017. However, in a case where before the proper authority could pass a final order under Section 73(9), reply/representation submitted by the assessee to show cause notice is received, it becomes incumbent upon the proper officer to consider the reply/representation and then pass a speaking order in terms of Section 73(9) of the Act after dealing with such response/representation. It is so because the time to file response to the show cause notice is not statutorily fixed and is left to the discretion of the proper officer. The same was held in the case of **ZAKIR HUSSAIN Vs UNION OF INDIA [2025-VIL-1064-J&K]**

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