

Arrest warrant issued by TPO without issuing SCN to be quashed:HC

Summary – The High Court of Karnataka in a recent case of Lalith kumar Ramani, (the Assessee) held that arrest warrant issued by TPO without issuing SCN needs to be quashed

Facts

- The assessee filed a petition regarding validity of the warrant of arrest issued by TRO, Debts Recovery Tribunal stating that before issuing the arrest warrant, the provisions prescribed in rules 73 and 74 contained in Schedule II of the Act, had not been complied and the arrest warrant was procedurally *ultra vires*.

Held

- The HC held that as per the provisions of rule 73(1) of Second Schedule of the Act it is evident that no order for the arrest and detention in civil prison of a defaulter shall be made unless the Tax Recovery Officer has issued and served a notice upon the defaulter calling upon him to appear before him on the date specified in the notice and to show cause as to why he should not be committed to civil prison, unless the Tax Recovery Officer is satisfied for the reasons which are mentioned in clauses (a) and (b) of sub-rule (1) of rule 73 of Schedule II of the Act.
- In assessee's case, the notice does not fulfil the requirements as prescribed since no specific show-cause notice was issued to the assessee before issuing the warrant.
- Therefore, the impugned order is procedurally *ultra vires*. It is accordingly quashed and set aside.