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GST Newsletter

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The CBIC has issued instruction to clarify that there may be multiple types of arrangements in relation to secondment of employees of overseas group company in the Indian entity. Therefore, the decision of the Hon'ble Supreme Court in the NOS judgment should not be applied mechanically in all the cases-Instruction No. 05/2023-GST Dated 13.12.2023

Where goods of assessee were detained on ground that both consignor and consignee were declared as non-existent, however, goods were found with proper tax invoice and E-way bill belonging to assessee, in such a case, assessee would be deemed to be owner of goods and, thus, goods would have to be released in terms of section 129(1)(a)-Allahabad HC

Where taxable persons could not file appeal within time stipulated, by Notification No. 53/2023-CT, dated 2-11-2023, time was granted to file an appeal against order in Form GSTAPL-01 in accordance with section 107(1) on or before 31-1-2024- Madras HC



Where assessee sought refund on account implementation of GST leading to enhanced tax liability as contract entered before GST regime provides that taxes was to be borne by assessee, since implementation of GST merely subsumed indirect taxes payable by a supplier for entire service chain and has not introduced any additional set of taxes, petition was dismissed and refund was denied-Calcutta HC

Where petitioner had filed refund application under section 54(3) for period from 1-4-2018 to 31-7-2019, since credit was already available for prior period i.e., financial year 2017-18, in assessee's electronic ledger in form of a running account, it was permissible for petitioner to club ITC of both periods as per rule 89(4)-Bombay HC

High Court not inclined to entertain challenge to SCN in absence of any violation or any ground of want of jurisdiction-Andhra Pradesh HC

Where after conducting standard processing, client procured in bulk 'tea' of various qualities and stored them in petitioner's warehouse, petitioner would be entitled to exemption as petitioner had provided services of warehousing of agricultural produce-Bombay HC

Where invoices submitted by assessee did not appear in its buyer's Form GSTR-2B and instead inadvertently appeared Form GSTR-2B of third party vendor of its buyer, and buyer was unable to claim ITC for such invoices, assessee's request to amend/rectify Form GSTR-1 could not be rejected as errors of assessee were inadvertent and bonafide and there was not an iota of an illegal gain being derived by assessee-Bombay HC

1. High Court of Delhi in the case of Bhagat Ram Om Prakash Agro (P.) Ltd.Vs Commissioner Central Tax GST[W.P.(C) NO. 12304 OF 2023 Dated 07.12.2023]

Where none of grounds as set out in search authorization were borne out from information or material on record of respondent authority, authorization issued by Special Judge was patently erroneous.

No directions could have been issued by Special Judge for conducting a roving and fishing inquiry by GST authority when it was clear that said directions were given without reference to statutory provisions of CGST Act and without being cognizant of powers of GST authorities to conduct inspection, search and seizure operations under CGST Act.

Even if it was stated on behalf of Revenue that no documents had been seized, and only certain photocopies of documents were collected, since conditions for inspection under section 67(1) of CGST Act were not satisfied, said documents were required to be returned to petitioners [Section 67 of Central Goods and Services Tax Act, 2017/ Delhi Goods and Services Tax Act, 2017].

2. High Court of Kerala in the case of Chukkath Krishnan Praveen Vs State of Kerala[WP(C) NO. 41219 OF 2023 Dated 08.12.2023]

Assessee, a registered dealer, committed some errors in submitting returns on basis of which assessment order was passed.

Petitioner made a representation for rectifying mistakes/error which resulted in passing impugned assessment order.

Assessee also sought for a direction to treat representation as a rectification application and to pass necessary orders.

Assessee, sought permission to rectify mistake in Form GSTR-3B by accounting input tax credit as IGST instead of SGST and CGST credit as also to refund IGST Input tax credit and thereafter, adjust same towards SGST and CGST liability.

It was held that Revenue authorities should consider instant representation as a rectification application filed by assessee and should pass necessary orders [Section 16 of Central Goods and Services Tax Act, 2017/ Kerala State Goods and Services Tax Act, 2017].