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GST Newsletter

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Where vehicle containing goods broke down and goods were loaded on another vehicle, and since there was Bharat Band on said date, driver of vehicle could not update E-way bill, however, revised E-way bill had been produced before authorities prior to passing of seizure order, presence of mens rea for evasion of tax being a sine qua non for imposition of penalty, order passed by Assistant Commissioner imposing penalty and order of Appellate Authority confirming same were to be set aside-Allahabad HC

Where appeal filed against impugned order was rejected being delayed by 84 days, confusion about impugned order passed under TNVAT Act or TNGST Act, amount deposited by petitioner was about 25% of disputed tax, appellate authority was to be directed to receive and dispose of appeal on merits without going into aspect of limitation-Madras HC

Fees collected for providing practical training to nursing students and psychologists is not exempt from GST-Karnataka AAR

Where an impugned order was passed rejecting appeal filing by assessee on ground of period of limitation, since, assessee placed a death certificate of his mother, it was observed that assessee should be provided an opportunity to prosecute and appeal, accordingly impugned order was quashed and department was directed to receive and dispose assessee's appeal-Madras HC

Where filing of refund application by online method was permissible under relevant circulars of revenue and assessee filed application for refund under section 54(3) but relevant documents were submitted subsequently; application could not have been held to be barred by limitation-Bombay HC

Where apart from an error with regard to address of consignee in e-way bill there were no other issues with said consignment and imposition of penalty on assessee was only on basis of a technical error with regard to address of consignee that was wrongly written in e-way bill, order imposing penalty on assessee for same was to be set aside-Allahabad HC

Where assessee's proprietor passed away and it did not file any GST returns after April, 2021 on account of his passing away, retrospective cancellation of registration from 1-7-2017 was not warranted as there was nothing on record to show that deceased was not making requisite compliances and registration was to be canceled from date of demise of proprietor -Delhi HC

The Hon'ble Madras High Court in the case of Ingram Micro India (P.) Ltd. v. State Tax Officer [Writ Petition No. 594 of 2024 dated January 12, 2024] held that the Assessing Authority did not apply their mind before drawing conclusions and failed to consider the certificate issued by a Chartered Accountant and all documents submitted by the Assessee. Hence, the Impugned Order was remanded for reconsideration.

1. High Court of Orissa in the case of Amit Baran Das Vs Commissioner, CT & GST[W.P.(C). NO.1687 OF 2024 Dated 30.01.2024]

Impugned order was passed in appeal under Section 107 of CGST Act read with Rule 108 of CGST Rules directed against order passed under section 73 of CGST/OGST Act. Petitioner contended that appellate authority had not given opportunity of hearing to petitioner and, as such, petitioner had not produced any record to substantiate his case.

HELD : Appellate authority had mentioned in order that in spite of sufficient opportunity being given, petitioner did not appear, for which he was constrained to pass ex parte order on basis of materials available on appeal record. However, considering interest of State for augmentation of revenue, impugned order was to be quashed. [Section 107 of Central Goods and Services Tax Act, 2017/Orissa Goods and Services Tax Act, 2017; Rule 108 of Central Goods and Services Tax Rules, 2017/Orissa Goods and Services Tax Rules, 2017]

2. High Court of Punjab and Haryana in the case of Gupta Enterprises Vs State of Punjab[CWP NO. 787 OF 2024 Dated 12.01.2024]

Certain discrepancies were noted during physical verification at business premises of assessee.

Subsequently, notices were issued and a reply was filed related to discrepancy noticed by authority stating that when renovation of house was going on, workers had taken off GST name board from wall and now it stands restored and refixed.

Relevant proof of renovation work was submitted to department.

Reply filed by assessee was not considered and order cancelling GST registration was passed.

Revocation application was rejected on grounds that JRO report didn't show any sign of renovation. Assessee filed an appeal which was dismissed on ground that renovation charges were not mentioned in balance sheet/ profit and loss expenses.

Held - Expectation of authority that expenses would be shown in balance sheets of partnership was not acceptable as apparently it was a residential house and had no connection with partnership firm concerned. It was submitted that effect of revocation had serious ramifications in as much as an order of rejecting GST refund was passed by department solely on this ground that GST registration was cancelled. Civil consequences of cancellation, apparently out-weigh manner in which department proceeded in dealing with case regarding physical verification. Resultantly, impugned order was quashed and GST registration of assessee was restored.