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GST Newsletter

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Where Competent Authority had passed an order under section 75 demanding certain amount from assessee, since impugned order was issued without providing assessee opportunity of personal hearing as mandated by section 75, impugned order was to be set aside and matter was to be remanded for reconsideration-Madras HC

HC set aside order as assessee was asked to appear for personal hearing within 2 hours of receiving SCN-Madras HC

Where impugned SCN for cancelling GST registration was issued solely on basis of a letter received from another authority and said letter was neither attached to impugned SCN nor did impugned SCN referred to any contents, and, further, it was not indicated in impugned order as to how proper officer was satisfied as to fulfillment of conditions mentioned in section 29(1) or 29 (2) of Central Goods and Services Tax Act, 2017, impugned order cancelling assessee's GST registration was to be set aside-Delhi HC



Where assessee applied online for refund as per order of appellate authority, action of adjudicating authority in seeking bank guarantee from assessee was ex facie contrary to directions of appellate authority, same, could not be sustained-Rajasthan HC

Where assessee's claim for input tax credit was rejected and assessee filed writ petition challenging impugned order, since a statutory remedy was available to assessee, High Court was not inclined to exercise discretionary jurisdiction-Madras HC

SC dismissed SLP against HC's order granting interest on refund of excess recovery of tax to VIVO-SC

Notice for personal hearing issued without details of date, time and venue is not valid; authority was directed to grant personal hearing in accordance with Section 75(4) of CGST Act, 2017-Chattisgarh HC

The number of e-way bills generated in December were 9.52 crore, the second highest monthly figure so far. The e-way bills generated in December may have some impact on GST collections in January and February

Finance ministry said that suspected tax evasion related to Goods and Services Tax (GST) credit of more than ₹44,000 crore has been detected since last May in a drive against non-existent tax payers.

The Finance Ministry will likely issue a clarification soon on whether the amendment to GST rules pertaining to online gaming, casinos and horse racing would be implemented retrospectively or prospectively as per sources

HC directs dept. to unblock ITC as order of blocking ITC would remain valid for a period of 1 year-Karnataka HC

HC directed dept. to visit assessee's new place of business to verify whether he was carrying business before cancellation-Delhi HC

Indirect Tax Updates

1. High Court of Delhi in the case of Santosh Kumar Gupta Vs Commissioner, Delhi Goods & Services Tax Act[W.P. (C) NO. 17171 OF 2022 Dated 05.12.2023]

Assessee had contended that they were compelled to reverse input tax credit and statement recorded under duress and coercion.

It was held that deposit was made at 11.30 pm during conduct of search.

Writ petition was filed after one month from recording of statement and same was being retracted.

Acknowledgement for receipt of payment was not issued by department and procedure prescribed was not followed.

Assessee may have reversed ITC in intimidating circumstances.

Contention of department that reversal was voluntary was not acceptable.

Assessee would not reverse ITC in normal course late at night.

Department was directed to restore ITC [Section 54, read with section 67 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017]

2. High Court of Delhi in the case of Kundan Impex Vs Principal Commissioner of Department of Trade and Taxes[W.P.(C) NO. 164 OF 2024 Dated 05.01.2024]

Show cause notice was issued to petitioner-assessee whereby registration of petitioner was suspended.

Assessee vide instant petition sought direction to respondent authority to cancel registration of assessee from date when last return was filed.

It was held that show cause notice did not contain requisite details and was not sustainable.

Letter issued by department also did not give any clarity as to allegation of availing of fraudulent input tax credit by assessee.

Show cause notice was to be set aside.

However, it was open to respondent authority to take further action in accordance with law, inter alia, cancellation of registration with retrospective effect in accordance with law and pursuant to a proper show cause notice and an opportunity of hearing being given to assessee.

Assessee was also at liberty to apply for cancellation of registration in accordance with law [Section 29 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017]