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GST Newsletter

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The CBIC has issued clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons and manner of distribution of credit on common input services.[Circular No. 199/11/2023-GST Dated 17th July 2023]

ITC can't be claimed for period prior to National Company Law Tribunal approval of resolution plan: Jharkhand HC[2023] 152 taxmann.com 412 (Jharkhand)[11-07-2023]

The CBIC has issued circular to clarify which ECO should deduct TCS and make other compliances under section 52 of CGST Act in such models having multiple ECOs in a single transaction and both the Buyer-side ECO and the Seller-side ECO qualify as ECOs as per Section 2(45) of the CGST Act[Circular No. 194/06/2023-GST Dated 17.07.2023]



The CBIC has issued circular to clarify that GST is not chargeable on free replacement of parts and/ or repair service during warranty period and it is not required to reverse the input tax credit in respect of the said replacement parts or on repair services provided[Circular No. 195/07/2023-GST Dated 17.07.2023]

Amnesty Schemes for non-filers of Annual Returns & revocation of GST cancellation extended till 31st August, 2023[Notification No. 22/2023– CENTRAL TAX Dated 17th July 2023]

Where revenue possess jurisdiction to give appropriate decision with respect to refund of amount paid by petitioner-assessee during provisional attachment of bank account under Section 83 of CGST Act, 2017, therefore, petitioner was directed to make an application before revenue in this regard; Matter was to be remanded-Bombay HC-[2023] 152 taxmann.com 426 (Bombay)[03-07-2023]

HC set aside ex-parte order since dept. didn't consider bona fide reasons of illness of petitioner-Allahabad HC[2023] 152 taxmann.com 413 (Allahabad)[19-06-2023]

Advance ruling can't be given if validity of agreement under which services are supplied is in doubt: Maharashtra AAR[2023] 152 taxmann.com 431 (AAR - MAHARASHTRA)[27-04-2022]

HC dismissed writ against GST cancellation due to non-intimation of change of address since SCN was not replied-Madras HC[[2023] 152 taxmann.com 485 (Madras)[20-06-2023]

Services of milling of food grains into flour provided to State Govt. under PDS is eligible for exemption:WB AAR[2023] 152 taxmann.com 482 (AAR - WEST BENGAL)[19-05-2023]

1. High Court of Ahmedabad in the case of Sona Metals Vs State of Gujarat[R/SPECIAL CIVIL APPLICATION NO. 25221 OF 2022 Dated 15.06.2023]

The show cause notice issued by the respondent to the petitioner is very vague and cryptic. Therefore, it was difficult for the petitioner to give any reply to the said show cause notice.

It is not in dispute that the said show cause notice was not served by RPAD and it is the specific case of the petitioner that the notice dated 30.06.2022 has not been received by the petitioner.

Respondent has, thereafter, passed an order on 15.07.2022. The Hon'ble Court has gone through the said order. Thereafter, another order dated 15.07.2022 was also provided.

The Hon'ble Court is of the view that in both the aforesaid orders, the concerned respondent has failed to provide specific reasons for cancellation of registration under Section 29(2) of the GST Act.

In the aforesaid facts and circumstances of the present case, we are of the view that both the show cause notice as well as the order deserve to be quashed and set aside.

The showcause notice and the order dated 15.07.2022 are hereby quashed and set aside.

However, liberty is granted to the respondent authorities to issue fresh notice with particulars of reasons incorporated with details and thereafter to provide reasonable opportunity of hearing to the petitioner and to pass appropriate order in accordance with law.

The concerned respondent is hereby directed to restore the registration of the petitioner forthwith. It is needless to mention that it shall be open for the petitioner to respond to such notice by filing objection/reply with necessary documents, if relied upon.

2. High Court of Madras in the case of Hatsun Agro Product Ltd Vs Deputy Commissioner (ST) – II[W.M.P. NOS.16983 & 16984 OF 2023 Dated 15.06.2023]

The impugned order is one of assessment dated 17.03.2023, passed under the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 (in short 'Act'). The issue relates to reversal of Input Tax Credit (ITC), which, in the opinion of the Assessing Officer is ineligible and ought not to have been claimed.

Prior to the impugned order, which is a culmination of proceedings for assessment under Section 73 of the Act, the Assessing Authority had issued notices in DRC-01A and ASMT -10 calling for identical particulars as were required for the present impugned proceedings as well.

A perusal of the impugned order makes it clear that it is only in paragraph 5 onwards

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that the Assessing Officer has embarked on the determination/crystallisation of the amount to be reversed on a comparison of the ITC claimed under GSTR 3B and GSTR 2B.

This determination, in the considered view of the Court, ought to have been put to the petitioner in the show cause notice itself prior to passing of the impugned order, such that the petitioner had been afforded sufficient opportunity to respond the same and, or provide details in support of the claim of ITC.

Prior to the impugned order of assessment, what was exchanged was only general notices calling for particulars to which the petitioner is seen to have responded, albeit, insufficiently.

Thus, and in the interests of substantial justice, impugned order of assessment dated 17.03.2023 is set aside and shall be treated as a show cause notice by the petitioner, who shall appear along with all details in support of the reversal under the impugned order on Thursday, the 13th July, 2023, at the specific request of the learned counsel for the petitioner, without expecting any further notice in this regard.