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GST Digest

- Recent case laws and
Notifications

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- Supreme Court in Commissioner of CGST & CE v. Flemingo Travel Retail Ltd. [Civil Appeal Diary No.24336/2022, dated 10.04.2022] held that Duty Free Shops, whether in arrival or departure terminals, being outside customs frontiers of India, any levy of indirect tax would be unconstitutional, therefore, IGST collected was to be refunded.
- HC quashes demand notice for ITC which was earlier used for discharging overstated liability but later reclaimed.
- The E-Invoice Verifier App developed by GSTN, has been introduced which offers a convenient solution for verifying e-Invoices and other related details.
- The government is working on pre-filled consolidated GST return forms on the lines of Annual Information Statement (AIS) which will allow taxpayers to view all their transaction details and e-invoices to arrive at exact tax liabilities.



- Allahabad HC stayed payment of GST for grant of mining lease/royalty by petitioner
- Applications filed by petitioner for refund for 2018-19 and 2019-20 were to be restored before Adjudicating Authority for fresh consideration in light of decision in Ernst & Young Ltd. v. Additional Commissioner, CGST-HC
- A nationwide crackdown by the Goods and Services Tax authorities uncovered tax evasion to the tune of ₹30,000 crore, allegedly carried out via stolen identities including as many as 18,000 Permanent Account Number (PAN) and Aadhaar cards.
- The Delhi High Court has held that Rule 89(4) of the Central Goods and Services Tax Rules, 2017 is inapplicable to cases of refund of integrated tax paid on Zero rated Supply.
- CBIC has issued instructions for Guidelines for processing of applications for registration[Instruction No. 03/2023-GST Dated 14.06.2023]
- Recording of statements to be allowed in presence of advocate at visible but not audible distance during interrogation-HC

Indirect Tax Updates

1. High Court of Delhi in the case of RISHIRAJ ALUMINIUM PRIVATE LIMITED Vs GOODS AND SERVICE TAX OFFICER[W.P.(C) 4125/2023 Dated 17.04.2023]

The petitioner has challenged a show cause notice by which the petitioner's GST registration was suspended and the petitioner was called upon to show cause why its GST registration should not be cancelled.

The petitioner contended that the only reason stated in the show cause notice for proposing cancellation of the petitioner's GST registration was "cease to be liable to paytax".

The petitioner stated that it has been filing its tax returns regularly and also paying the taxes as due.

However, the petitioner's GST registration has been suspended, in terms of the show cause notice, on account of the cryptic reason.

The respondent, has been unable to defend the impugned showcause notice. Clearly, the show cause notice is deficient. It does not sufficiently disclose the reasons why the petitioner's GST Registration was suspended or was proposed to be cancelled.

As per the Hon'ble Court it is well settled that a show cause notice must clearly set out the reasons for proposing an adverse action in order for the noticee to respond to the same.

There is merit in the petitioner's contention that petitioner is at a loss as to how to respond to the impugned show cause notice as it did not disclose any intelligible reason for proposing cancellation of the petitioner's registration.

In view of the above, the impugned show cause notice is set aside.

The petitioner's GST Registration is restored.

2. M/s. Laxman Barik Versus Joint Commissioner of State Tax (Appeals)[W.P (C) No. 10587 of 2023 And I.A. No. 4924 of 2023 Dated 18.04.2023]

The petitioner/assessee filed the writ petition challenging the first appellate order passed by the Joint Commissioner of State Tax.

The 1st appellate authority did not admit the appeal preferred by the petitioner, as it was in contravention of Sections 107(1) and (4) of the GST Act and had rejected the appeal filed under Section 107 (1) of the Odisha Goods and Services Tax Act, 2017.

The petitioner contended that petitioner is not liable to pay the tax and penalty and, as such, is against the order passed by the 1st appellate authority. Though the second appeal lies, the 2nd appellate tribunal has not yet been constituted.

The petitioner submitted that the petitioner has already deposited 10% of the demanded tax amount before the first appellate authority, and as there is no second appellate forum, the High Court should entertain the writ petition.

The department contended that since there is a delay in preferring the appeal, the Court may not be in a position to condone the delay beyond four months particularly when appellate authority has not been vested with discretion to condone the delay beyond one month after a lapse of three months from the date of communication of the order impugned therewith.

Indirect Tax Updates

The case stands on a different footing, and the petitioner is liable to pay the tax.

The court said that since the appellate tribunal is not yet created, interim relief of stay was granted in cases where the assessee wants to appeal an order made by the first appellate authority, subject to the assessee submitting the necessary tax amount.