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GST Newsletter

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Writ petition to be dismissed since assessee didn't utilize appellate remedy against demand notice and assessment order-Patna HC

Where GST rate of restaurant service supplied by assessee was reduced from 18 per cent to 5 per cent and assessee had not passed benefit of reduction in GST rate to recipients by way of commensurate reduction in price in terms of section 171, therefore assessee was directed to deposit profiteered amount in two equal part each in Central Welfare Fund and Uttar Pradesh State Welfare Fund along with interest at rate 18 per cent-CCI

Where assessee's GST registration was cancelled on ground of non-filing of returns for a continuous period of more than six months, assessee was to be granted restoration of registration subject to condition that it filed returns for period prior to cancellation of registration together with tax dues, interest thereon and fee fixed for belated filing of returns-Madras HC

Where assessee provide canteen facility to their employees and bears 70 percent of cost and rest is borne by said permanent employees, deductions made by assessee from their permanent employees who are availing food in factory would not be considered as supply in terms of section 7, thus, GST is not liable to be discharged on portion of amount recovered by assessee from it permanent employees towards canteen facilities provided to them-AAR Gujarat

Where assessee was entitled to refund of IGST paid on goods exported during transitional period after deducting differential amount of duty drawback, Competent Authority was to be directed to grant said refund along with simple interest-Bombay High Court

The GSTN issued Advisory No. 627 dated March 12, 2024 on GSTR-1/IFF regarding the Introduction of New 14A and 15A tables.

Union Minister for Tourism and Culture has expressed serious concern at the role of the Indian Institute of Technology, Hyderabad (IIT-H) in the massive GST returns scam unearthed by Telangana Commercial Taxes department running into over ₹1,000 crore.

Where assessment order issued to assessee did not discuss reply to show cause notice made by assessee or record any findings in relation thereto, therefore same was to be quashed and matter was remanded for reconsideration-Madras HC

Where State Authorities had initiated proceedings against assessee, Summons issued by DGGI under section 70 cannot be said to be initiation of proceedings on same subject matter under CGST Act and thus, was not hit by section 6(2)(b)-Rajasthan HC

1. High Court of Allahabad in the case of Ridhi Sidhi Granite and Tiles Vs State of U.P.[WRIT TAX NO. 298 OF 2024 Dated 01.03.2024]

Invoice contained address, goods matched description in invoice and all other materials were intact.

Authorities had not been able to indicate any mens rea on part of assessee for evasion of tax.

Imposition of tax on assessee was made only on basis of technical error with regard to address of consignee that was wrongly written in E-Way Bill.

HELD : In a catena of judgments, it was held that presence of mens rea for evasion of tax was a sine qua non for imposition of penalty and mere technical error would not lead to imposition of penalty.

Consequently, impugned order was to be set aside and amount deposited by assessee was to be refunded to it [Section 130 of Central Goods And Services Tax Act, 2017/Uttar Pradesh Goods And Services Tax Act, 2017]

2. Supreme Court of India in the case of Commissioner of CGST Vs R.J. Trading Co[PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO. 725 OF 2022 Dated 27.02.2024]

High Court observed that there was non-application of mind by officer issuing search authorization which was issued on basis of a communication received from another field formation requesting verification with regard to existence of assessee only.

There was nothing on record to indicate existence of reasonable belief with officer issuing search authorization that "any" goods was liable for confiscation or "any" document, or book or thing relevant for proceedings under CGST Act were secreted in assessee's premises.

Search authorization was accordingly held illegal. On appeal by Revenue - HELD : Impugned order could not be interfered with. However, question of law was to be kept open and observations made by High Court in impugned order would have no bearing on adjudication proceedings - Revenue's SLP was to be dismissed [Section 67 of Central Goods and Services Tax Act, 2017].