

Tax Digest

- Recent case laws



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- The CBIC has issued notification to provide that the option for the Financial Year 2023-2024 to pay tax under Forward Charge by Goods Transport Agency shall be exercised on or before the 31st May, 2023. Earlier, this option was required to be exercised before 15th March, 2023(No. 05/2023- Central Tax (Rate) Dated 09th May 2023).
- Notice issued on basis of information passed by Officials of V&E Department is valid: Andhra Pradesh HC
- Renting of warehouse to store agricultural produce is taxable at 18% under GST: Tamil Nadu AAR
- Such meaning is to be given to 'proviso' which doesn't disrupt the main part of provision- Delhi HC



- It has been decided by the competent authority to defer the imposition of time limit of 7 days on reporting old e-invoices on the e-invoice IRP portals for taxpayers with aggregate turnover greater than or equal to 100 crores by three months-GSTN Advisory dated 06.05.2023.
- High Court directs petitioner to pay outstanding dues and appellate authority to reconsider appeal where appeal against registration cancellation order was rejected on limitation-Gauhati HC.
- HC remitted matter back to preliminary authority to re-consider GSTIN cancellation as Tribunal has not been constituted-AP HC
- HC permitted petitioner to rectify inadvertent mistake in GSTR-1 & file corrected GSTR-1 manually-Calcutta HC
- CBIC Issues Guidelines For Special All-India Drive Against Fake Registrations (Instruction No. 01/2023-GST Dated 04.05.2023)
- 12% GST Payable On Accommodation Building Located Outside The Boundary Of The Religious Place: Gujarat AAR
- The central government has recommended a reduction of the e-invoice threshold to more than Rs.5 crore starting on 01st August 2023(Notification No. 10/2023 – Central Tax dated 10.05.2023)
- Businesses will have to more careful while filing returns as the automated scrutiny system for the goods and services tax (GST) is about to use advanced artificial intelligence and data analytics to monitor mismatches.

1. High Court of Jharkhand in the case of Global Construction Vs Union of India(W.P.(T) NO. 493 OF 2022 dated 04.01.2023)

- i.** The writ petitioners approached this Court against the garnishee notice issued under Section 79 of the Central Goods & Services Tax Act, 2017 whereby the respondent Deputy Commissioner (Preventive), Central Goods & Services Tax and Central Excise, Ranchi had frozen the bank account of the petitioners.
- ii.** The writ petition was disposed of without going into the merits of the case since the petitioners had approached the appellate authority against the order-in-original and immediately on the next date the impugned garnishee notice had been issued during pendency of the appellate proceeding.

iii. The writ petitioners approached this Court in W.P.(T) No.4329 of 2021 against the garnishee notice dated 30th September 2021 issued under Section 79 of the Central Goods & Services Tax Act, 2017 whereby the respondent Deputy Commissioner (Preventive), Central Goods & Services Tax and Central Excise, Ranchi had frozen the bank account of the petitioners. The writ petition was disposed of without going into the merits of the case since the petitioners had approached the appellate authority on 29th September 2021 against the order-in-original dated 18th December 2018 and immediately on the next date i.e. 30th September 2021 the impugned garnishee notice had been issued during pendency of the appellate proceeding.

iv. Learned counsel for the petitioners submits that the address of the petitioner is M/s Global Construction, Qr. No.1304, Sector-1/C, Bokaro Steel City, District Bokaro (Jharkhand)

- 827001 as is also apparent from the appellate order and the order in original.
- v.** The appellate authority has also proceeded on an assumption that the show-cause notice leading to the order in original was also received on the same address.
- vi.** Learned counsel for the petitioners submits that the booking journal of the speed post/dispatch register clearly shows that the address was not correct or incomplete.
- vii.** As such, no presumption of service of order in original could be drawn. A valuable right of appeal cannot be denied on such presumption.
- viii.** There is no reason why the petitioners would not have preferred an appeal within time, had the order been served upon him. Since the order was served by the Adjudication Branch, CGST & CX, Ranchi on 19th October 2020, the petitioners would be entitled to condonation of the delay during COVID period in view of the directions passed by the Apex Court in Suo Motu Writ Petition (Civil) No. 03/2020, such as orders dated 23rd March 2020, 23rd September 2021 and 10th January 2022.
- ix.** The appeal has been rejected by the Commissioner (Appeals), Central Goods & Services Tax and Central Excise, Ranchi only on the point of limitation since it was preferred after almost 2 years and 9 months on 29.09.2021.
- x.** Under Section 85 of the Finance Act, 1994 the statutory limit of 60 days is prescribed for preferring an appeal. The delay, if any, is condonable up to 30 days beyond the period of 60 days under Section 85(3A) of the Act. However, two facts emerge from the pleadings on records which

cannot be ignored: first that the certified copy of the impugned order was provided to the appellant on 19th December 2020 by the Adjudication Branch of Central Goods & Services Tax and Central Excise, Ranchi which means that by that time the relaxation of limitation period as per the directions of the Apex Court in *Suo Motu Writ Petition (Civil) No. 03/2020* had commenced due to the COVID lockdown.

xi. The other fact which emerges from the information obtained under RTI vide Annexure-11 from the office of the Principal Commissioner, Central Goods & Services Tax and Central Excise, Ranchi dated 24th January 2022 is that the booking journal or the track consignment report of the speed post does not contain the complete address of the petitioner.

xii. it is apparent that notices were issued on incorrect or inadequate

address and that too of the Proprietor of M/s Global Construction. The presumption of proof of service of notice is a rebuttable piece of evidence and the track consignment report having an incomplete address of the petitioner, valid service of notice of the order in original cannot be presumed.

xiii. The Court is satisfied that the grounds of rejection of the memo of appeal are not tenable on facts. Accordingly, the appellate order is set aside. The matter is remanded to the appellate authority to consider afresh in accordance with law.

2. [High Court of Rajasthan in the case of Suresh Jajra vs Union of India\(S.B. CRIMINAL MISC. BAIL APPLN. NO. 11477 OF 2022 Dated 04.08.2022\)](#)

i. The present bail application has been filed under Section 439 Cr.P.C. arising out of Case No.DGGI/INV/GST/3064/2021-Gr-B-O/O ADG-DGGI-JZU-Jaipur for the

- offence punishable under Sections 132(1) of the Central Goods & Service Tax Act, 2017, regarding which bail application No.187(2022) (CIS No.2383/2022) has been rejected by Additional Sessions Judge No.9, Jaipur Metropolitan-II, Jaipur vide order dated 19.07.2022.
- ii. Learned counsel for the petitioner submits that the petitioner has been wrongly implicated in this case. Petitioner is behind the bar since long. Learned counsel for the petitioner also submits that petitioner is neither owner of Ayodhya Food Products or nor partner of the firm. Learned counsel for the petitioner also submits that petitioner and other co-accused had retracted the statement given by him under Section 70 of GST Act.
- iii. Learned counsel for the petitioner also submits that statement given by co-accused and other persons cannot be read against him. Learned counsel for the petitioner also submits that maximum punishment in this case is five years and conclusion of trial may take long time. Learned counsel for the petitioner also submits that similarly situated co-accused Naresh Chandra Jajra and Abhishek Gehlot were enlarged on bail by this Court and by Co-ordinate Bench of this Court. So, petitioner be enlarged on bail.
- iv. Learned counsel for the petitioner relied upon the judgments in the case of ***Kishore Wadhvani v. State of MP***; 2020(43)GSTL 145 (M.P.), ***Dananjay Singh v. UOI*** (S.B. Criminal Miscellaneous Bail Application No.18825/2021 dated 05.02.2022), ***Naresh Chandra Jajra v. UOI*** (S.B. Criminal Miscellaneous Bail Application No.1914/2022 dated 25.02.2022), ***Abhishek Gehlot v. UOI*** (S.B. Criminal Miscellaneous Bail Application No.4086/2022 dated 13.04.2022), ***Khet Singh & Anr. v. State*** (S.B. Criminal Miscellaneous Bail Application No.861/2021 dated 25.01.2021), ***CIT v. Dhingra Metal (Del.)***(2010)328 ITR 384(Del), ***Vikas Bansal v. UOI*** (Bail Application No.2381 of 2021 dated 23.09.2021).
- v. Learned counsel for the respondent (UOI) has opposed the arguments advanced by learned counsel for the petitioner and submits that petitioner had evaded GST of around Rs.54 Crores. He is main culprit of the case. Learned counsel for the respondent also submits that co-accused and other witnesses during the statement under Section 70 of GST Act clearly stated that petitioner is responsible person. Learned

counsel for the respondent also submits that Hon'ble Apex Court in various pronouncement clearly stated that the matter pertains to economic offence, should not be dealt as a general case. Learned counsel for the respondent also submits that investigation is still pending. Chargesheet has not been filed against the petitioner. So, looking to the gravity of the offence, bail be dismissed.

- vi. Learned counsel for the respondent has relied upon the following judgments: **PV Ramana Reddy v. UOI, Vinaykant Ameta v. UOI (S.B. Criminal Miscellaneous Bail Application No.18243/2021), Sohan Singh v. UOI (S.B. Criminal Miscellaneous Bail Application No.2555/2022), Abhishek Singhal v. UOI (S.B. Criminal Miscellaneous Bail Application No.6304/2021), Mahender Mangal v. UOI (S.B. Criminal Miscellaneous Application No.13041/2021), Ramchandra Vishnoi v. UOI (S.B. Criminal Miscellaneous Bail Application No.13104/2021), Bharat Raj Kunj v. CGSTCommissionerate (S.B. Criminal Miscellaneous Bail Application No.16341/2019), Mohd.Yunus v. State of Rajasthan (S.B. Criminal Miscellaneous Bail Application**

No.15702/2019), SumitDutta v. UOI (S.B. Criminal Miscellaneous Bail Application No.3103/2022), Citation-2022(58) GSTL 15-Hon'ble Punjab & Haryana High Court, Citation-2022(58) GSTL 20-Hon'ble High Court, Citation-2020(40) GSTL 451-Hon'ble Orissa High Court, Paritosh Kumar Singh & Ors. v. State of Chhattisgarh & Ors. (Writ Appeal No.348/2021), Paresh Nathaal Chauhan v. State of Gujarat (Criminal Miscellaneous Application No.6237/2020).

- vii. Considering the contentions put forth by the counsel for the petitioner and taking into account the facts and circumstances of the case and without expressing any opinion on the merits of the case, this court deems it just and proper to enlarge the petitioner on bail.
- viii. Accordingly, the bail application under Section 439 Cr.P.C. is allowed and it is ordered that the accused-petitioner Suresh Jajra Son Of Late Shri Bal Krishan Jajra shall be enlarged on bail provided he furnishes a personal bond in the sum of Rs.50,000/-with two sureties of Rs.25,000/- each to the satisfaction of the learned trial Judge for his appearance before the court concerned on all the dates of hearing as and when called upon to do so.