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GST Newsletter

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NEWS FEED

Where assessee was unable to file appeal due to absence of constituted Tribunal, assessee was eligible for statutory benefit of obtaining stay on their tax liabilities subject to condition that assessee deposits amount equal to 20 percent of remaining disputed tax amount-High Court of Patna

CBIC notifies the amnesty scheme for filing of appeals under GST: [Notification No 53/2023-Central Tax Dated 02.11.2023]

Refund of accumulated Input Tax Credit (ITC) owing to inverted tax structure could not be reduced merely because portal restricted such refund due to reversal of wrongly availed credit by taxpayer-Gujarat High Court

Order of interim bail to be made absolute since custodial interrogation of assessee was not warranted-Bombay HC

Where CGST Act proceedings were initiated against petitioner for period from 1-7-2017 to 31-3-2021 regarding fraudulent ITC, while investigation resorted under MGST Act was for period from 1-4-2021 to 4-10-2023 regarding illegal refund; section 6(2)(b) of MGST Act would not apply to bar MGST proceedings-Bombay HC

Where CGST Act proceedings were initiated against petitioner for period from 1-7-2017 to 31-3-2021 regarding fraudulent ITC, while investigation resorted under MGST Act was for period from 1-4-2021 to 4-10-2023 regarding illegal refund; section 6(2)(b) of MGST Act would not apply to bar MGST proceedings-Bombay HC

Where show cause notice was issued without necessary details and final order of cancellation of Registration was passed, since principles of natural justice were not followed, both SCN and order were liable to be set aside; registration of petitioner was to be restored-Andhra Pradesh HC

HC allowed petitioner to file belated appeal against order of cancellation of registration before appellate authority-Madras HC

Although, petitioner-assessee failed to produce evidence to substantiate his claim that concerned officer of court was afflicted with Covid-19 which led to delay in filing appeal, however, petitioner-assessee might have case on merits to redress grievance, therefore, court directed respondent-department to dispose appeal filed by petitioner-assessee on merits and in accordance with law-Madras HC

GST Appellate Tribunals to face appeals worth Rs 1 Lakh Crore.

GST revenue collections have averaged at Rs 1.66 lakh crore per month during April-October 2023, up 11.4 per cent from the monthly average of Rs 1.49 lakh crore seen during April-October 2022. Overall, the total GST collections stood at Rs 1,72,003 crore in October, recording the highest year-on-year growth rate in 10 months.

Where High Court while admitting writ petition was silent on any interim relief for provisional release of confiscated goods, petitioners were to be permitted to move to High Court seeking expeditious interim relief in matter-Supreme Court

1. High Court of Gujarat in the case of Daksh Enterprise Vs Commissioner of State Tax[R/SPECIAL CIVIL APPLICATION NO. 14852 OF 2022 Dated 19.10.2023]

A notice under Sec.61 of the CGST/GGST was issued to the petitioner on 5-7-2021. Subsequently, it is the case of the petitioner that on 7-2-2022, a show cause notice/intimation in Form GST DRC - 01 was issued on 7-2-2022, wherein, a demand has been raised against the petitioner for the financial year 2019-2020.

Perusal of the show cause notice would indicate that the petitioner was asked to submit his reply on, or before, 20-2-2022. It is the case of the petitioner that pursuant to the show cause notice, the petitioner responded in detail by filing a reply on 19-2-2022.

Further, considering the reply so filed, by the impugned order dated 6-6-2022, the petitioner has been saddled with the liability to pay the amounts so stated in the order in Form GST DRC 07.

As per the Hon'ble Court it is evident from the show cause notice dated 5-2-2022 that a response was to be filed by the petitioner latest by 20-2-2022, which the petitioner in fact had filed a day prior thereto on 19-2-2022. The impugned order does not reflect consideration of the reply so filed and only on this ground, as there is a violation of principles of natural justice and non consideration of the reply so filed, the order dated 6-6-2022 is hereby quashed and set aside.

It is clarified that this Court has not gone into the merits of the issue and the authorities are free to pass a fresh order after consideration of the response filed by

the petitioner on 19-2-2022 and after giving personal hearing to the petitioner from the stage of DRC-01. The petition is partly allowed, accordingly.

2. Supreme Court of India in the case of Garg Oil Traders Vs State of Punjab[CIVIL APPEAL NO. 6930 OF 2023 Dated 20.10.2023]

Appellant's counsel drew our attention to an order dated 21-8-2023 passed in CWP No. 017853/2023 by the very same Bench of the High Court, wherein a direction was issued to the petitioner therein to deposit 25% of the total amount by way of cash and for the remaining amount the petitioner could furnishing a personal/surety bond and on that basis a direction for release of the goods.

He submitted that a similar order could have been passed in this case also. But, on the other hand, the direction is to pay Rs. 4,00,000/- in cash and give security by way of Bank Guarantee with respect to the remaining amount out of Rs. 19,42,692/-. He, therefore, submitted that order dated 21-8-2023 passed in CWP No. 17853 of 2023 may be passed in this case also.

The appeal is allowed and disposed of by modifying the direction to give surety by way of Bank Guarantee with furnishing of personal/surety bond in respect of the outstanding amount after deposit of Rs. 4,00,000/- in cash, which is stated to have been deposited by the appellant, within a week from today before the concerned Department.

After such steps as stated above are complied with by the appellant, liberty is reserved to the appellant to seek further remedies before the High Court.