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GST Newsletter

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Inspection fees and affiliation fees charged by University from colleges for granting affiliations to colleges is not exempted under Sl. No 66 of Notification No. 12 of 2017, dated 28-6-2017-Telengana HC

Assessee's contention that opportunity of hearing was not granted to assessee could not be accepted as assessee was having knowledge of notice but did not appear before authorities, therefore, no interference was required in notice as well as consequential order passed by revenue imposing penalty and interest under section 74(9)-Allahabad HC

Works contractors were liable to pay GST on payments received from Government contractees even if contracts were awarded prior to GST implementation, however, Government contractees were liable to bear additional tax liability arising from non-inclusion of GST in Schedule of Rates while preparing Bill for payment-Calcutta HC



Treated effluent water contains impurities and is reused in industries, falls under Heading 2201 and is eligible for exemption: Tamil Nadu AAR

Government contractee is liable to pay GST tax and interest on works contracts awarded in pre-GST regime, petitioners was to file representations before concerned authorities to neutralise impact of additional tax burden-Calcutta HC

Where petitioner wants to avail alternative remedy under section 112 which had not been constituted yet, as an interim measure subject petitioner depositing entire tax demand within 15 days and demand should be stayed-Orissa HC

HC quashed Appellate order for not considering petitioner's revised e-way bill after weight discrepancy correction-Allahabad HC

Various powers of authorities have been saved including power to scrutiny and audit in respect to period prior to 1-7-2017 by virtue of section 174(2)(e); however, procedure to carry on audit has to be as per section 65 or section 66 of CGST Act, 2017. Audit carried out by respondent authorities by issuance of notice on 17-8-2017 could not be said to be without jurisdiction or authority, and consequently, issuance of impugned demand-cum-show cause notice dated 7-5-2019 could not also said to be without jurisdiction or nugatory in view of saving of power of audit and recovery vide section 174(2)(e) of CGST Act, 2017-Gauhati HC

No interference needed with assessment order where petitioner was given extra time to reply but he did not respond-Madras HC

Where assessee had migrated from VAT to GST, he was entitled to input tax credit on goods received from registered suppliers and revenue could not direct assessee to forgo input tax credit as condition for extending validity of its registration retrospectively-Madras HC

Where proceedings were initiated against petitioner due to discrepancies in GSTINs, but Circular No. GST/2022-03/53, dated 2-1-2023 was issued which was beneficial to petitioner in handling said discrepancies, in view various judicial precedents benefit of circulars or notifications which came into existence during pendency of appeal, even up to stage of revision could not be denied to assessee, therefore, order initiating proceedings against petitioner was to be set aside and matter was to be remanded back.

Penalty and Interest could not be imposed when Credit was erroneously availed but not utilized-Punjab and Haryana HC

1. High Court of Madras in the case of E. Dharmaraj Vs Assistant Commissioner of State Tax[W.P. NO. 28339 OF 2023 Dated 17.11.2023]

Upon perusal of the documents, it is crystal clear that the GSTIN registration of the petitioner came to be cancelled by virtue of the impugned order.

Further, it is an admitted fact that the petitioner is working as a owner-cum-driver of lorry since the age of 25 years and has obtained GST Registration No.33AQRPD0201D1ZO in the month of May 2018 in the trade name of M/s.Selvi Transport. For the purpose of filing GST returns, the petitioner has engaged the services of an auditor and has provided him with all the login credentials pertaining to GST portal.

However, without taking proper instructions from the petitioner, the auditor has filed NIL GSTR-1 and GSTR-3B returns instead of showing the actual outwards supplies and therefore, on the presumption that the petitioner has not commenced any business, the respondent had cancelled the GST registration of the petitioner. However, without taking steps to restore the cancelled GSTIN, the auditor has filed GSTR-10 and accepted the cancellation.

It is a common knowledge that no prudent man would have raised invoices

after accepting the cancellation by filing GSTR-10 returns. In the instant case on hand, the reason assigned by the petitioner appears to be genuine. Though the petitioner has given proper instructions to the auditor, the auditor has filed NIL GSTR-1 and GSTR-3B returns and has also filed GSTR-10 returns after knowing about the cancellation of GSTIN registration standing in the name of the petitioner.

Therefore, for all these reasons, this Court is of the considered view that looking at any aspect it appears that the petitioner had only made genuine transactions and the error had been committed only on the part of the auditor who had filed GSTR-10 returns after knowing about the cancellation of GSTIN registration of the petitioner. Hence, the impugned order is liable to be set aside and the GSTIN registration No.33AQRPD0201D1ZO standing in the name of M/s.Selvi Transport is directed to be restored.

At this juncture, it is submitted by the learned Additional Government Pleader appearing on behalf of the respondent that the petitioner has to file a formal application for restoration of GSTIN registration No.33AQRPD0201D1ZO.

Considering the submission made by the learned Additional Government Pleader, the petitioner is directed to file an application for restoration of GSTIN registration within a period of one week

from the date of receipt of a copy of this order and the respondent shall revoke the cancellation of GSTIN registration No.33AQRPD0201D1ZO within a period of two weeks thereafter.

2. High Court of Delhi in the case of Sahil Jain Vs Directorate General of GST Intelligence DGGI[W.P.(C) NO. 14140 OF 2023/CM APPL. 55945 AND 55946 OF 2023 Dated 31.10.2023]

Petitioner was subjected to coercive measures without any authority of law.

Petitioner had been repeatedly threatened and intimidated and was coerced to deposit a sum of Rs. 1 crore notwithstanding that there was neither any show cause notice nor any determination of an amount due

Held that the Petitioner could not be compelled to deposit tax without following procedure under section 74 and section 79.

Therefore instant writ petition was to be disposed of, and revenue was directed not to accept any amount of tax from petitioner since petitioner did not wish to voluntarily deposit tax and if petitioner wants to deposit tax, he should do so after seeking courts permission [Section 74, read with section 79 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017]