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GST Newsletter

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State tax officer has jurisdiction to pass order blocking input tax credit: Bombay HC

Where petitioner providing telecommunication services including services in nature of International Inbound Roaming Services (IIR) and International Long Distance Services (ILD) to inbound subscribers of Foreign Telecom Operators (FTOs), refund of IGST could not be denied on ground that service provided was not export of service-Delhi HC

Where petitioner mistakenly claimed a refund under CGST Act, 2017 which should have been claimed as a refund under Central Excise Act, 1944, since they had sufficient Input Tax Credit to cover their liabilities, interest deduction by revenue of Rs.9,25,366 was deemed unnecessary and unjustified, thus, revenue was directed to refund deducted sum to petitioner within eight weeks-Madras HC

Where petitioner's appeal against assessment order was dismissed due to a 144-day delay, as appellate authority lacked power to condone delays beyond one month after initial three-month period, instant writ petition was to be dismissed-Kerala HC

If petitioner had furnished a valid return within 30 days of service of assessment orders under sub-section (1) of section 62, said assessment orders would have been deemed to have been withdrawn under sub-section (2) of section 62 but liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 would continue-Madras HC

HC allowed restoration of assessee's GST registration which was cancelled for non-filing of returns for 6 months-Allahabad HC

No violation of Section 171 since assessee passed on more amount than additional benefit available to home buyers: CCI

Where petitioner had failed to prove and establish actual physical movement of goods and genuineness of transaction, benefit of ITC refund would not be available to assessee; as such proceedings under section 74 had rightly been initiated-Allahabad HC

The Ministry of Finance has issued notification to notify Goods and Services Tax Appellate Tribunal (Appointment and Conditions of Service of President and Members) Rules, 2023. These rules shall apply to the President, Judicial Member, Technical Member (Centre) and Technical Member (State) of the Principal Bench and State Bench of Goods and Services Tax Appellate Tribunal[Notification No G.S.R. 793(E) Dated 25.10.2023]

HC directed petitioner to make representation to concerned officer regarding misuse of property for registration-Bombay HC

Where Show Cause notice was issued to petitioner alleging fraud, wilful misstatement, or suppression of facts, same was to be set aside as said notice lacked specificity and violated principles of natural justice and mere coexistence of registrations for petitioner and its parent company at same premises did not substantiate alleged wrongdoing-Andhra Pradesh HC

1. High Court of Delhi in the case of Tool Tech Enterprises Vs Assistant Commissioner[W.P.(C) NO. 11294 OF 2023,CM APPL. NO. 43918 OF 2023 DATED 25th September 2023]

A Show Cause Notice (SCN) was issued to petitioner, proposing cancellation of its GST registration for non-compliance with specified provisions under the GST Act. However, SCN was sent to incorrect address and did not specify the reasons for cancellation.

Subsequently, petitioner's GST registration was canceled by an order, without providing any specific reasons other than petitioner's failure to respond to incorrect SCN.

Appeal against said order was also rejected as time barred.

Hon'ble High Court held that since impugned SCN did not disclose reason why petitioner's GST registration was proposed to be cancelled, order passed pursuant to same was void as it was passed in violation of principles of natural justice.

2. High Court of Allahabad in the case of Vidya Coal Depot Vs Additional Commissioner Grade (Appeal)[WRIT TAX NO. 394 OF 2023 DATED 5th October 2023]

Petitioner-assessee was proprietor of firm carrying business of purchase and sale of

coal on retail basis for which GSTIN was granted.

On 24.09.2022, a show cause notice was issued by respondent-department to petitioner proposing to cancel registration of petitioner.

Petitioner submitted reply through registered post on 3.10.2022 in response to notice dated 24.09.2022. Being dissatisfied with reply of petitioner, adjudication order dated 14.10.2022 for cancelling registration of petitioner was passed.

Aggrieved by aforesaid order, petitioner preferred an appeal, but same had also been rejected by order dated 1.12.2022.

It was held by Hon'ble Court that no order of cancellation was passed on fixed date of 29.4.2022 .

On 14.10.2022, cancellation order was passed for which neither any notice nor any communication was made to petitioner.

Further, there was a discrepancy in observations of respondent with regards to date of reply filed by petitioner in cancellation of registration order, Earlier, it had wrongly been mentioned by respondent that no reply was submitted by petitioner, but at subsequent incidents date of reply filed by petitioner was mentioned - Further, it was a matter of common knowledge that under GST Act, Account

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books were to be maintained by every person - There was no finding at any stage to show that Account books were not maintained by petitioner - In absence of such finding, no violation of Section 29 and Rule 21 could be made out against petitioner.

Therefore, in view of aforesaid facts and circumstances of case, impugned adjudication order dated 14.10.2022 and appellate order dated 01.12.2022 could not be sustained in eye of law and were hereby quashed and writ petition was allowed [Section 29 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017 - Rule 21 of Central Goods and Services Tax Rules, 2017/Uttar Pradesh Goods and Services Tax Rules, 2017].