

Tax Digest

- Recent case laws



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NEWS

FEED

- The value of the inter-state flow of goods in India increased to about 70 per cent of GDP in FY22 from nearly 55 per cent in FY18, taking into account movements of domestic and imported goods, shows a paper authored by Bibek Debroy, chairman of the Prime Minister's Economic Advisory Council (PMEAC)
- HC directs dept. to provide opportunity to explain why goods didn't reach destination before expiry of E-Way Bill
- Services of maintenance of colonies developed by Housing Board but not handed over to local authority are not exempt: Chattisgarh AAR
- Principles of natural justice were not in violation when assessee had no bona fide intention to produce documents: Calcutta HC
- Subsidized Deduction Made From The Employees Availing Food In The Factory/Corporate Office Would Not Be Considered A 'Supply' Under GST: Gujarat AAR



- **Delhi High Court Quashes Service Tax Demand of Rs. 56.61 Crores Against MTNL**
- **One Time Premium Received On Allotment Of Completed Commercial Units/Building Attracts 18% GST: Gujarat AAR**
- **Punjab And Haryana High Court Directs To Refund Tax Collected Illegally With 6% Interest**
- **Valuation of goods can't be determined in writ proceedings; must be established before appellate authority: Madras HC**
- **Writ Jurisdiction was not invocable against an order against which statutory appellate remedy was available-Gujarat HC**
- **Petitioners prayer for extension of protective measures were allowed and interim order was to be continued-Bombay HC**
- **More Show Cause Notices to be issued to insurance Companies-The GST authorities have booked cases for recovery of input tax credit on the supplies which are not there. To garner more business, the companies have been giving higher commission to agents. Some recoveries have also been made.**

1. High Court of Andhra Pradesh in the case of Reddy Enterprises Vs State of Andhra Pradesh-(W.P. NO. 1433 OF 2023 Dated 24.03.2023)

- i.** Petitioner-assessee was a proprietary concern engaged in outsourcing employees to A.P. State Beverages Corporation and A.P. Mineral Development Corporation in various categories
- ii.** Assessee obtained GST registration and had been filing monthly returns as stipulated in GSTR 3B and paying tax - Respondent-department issued show cause notice under section 74(1) of Andhra Pradesh Goods and Services Tax Act, 2017 fixing tax due with interest and penalty of Rs.52,48,58,430.
- iii.** Due opportunity was given to assessee to appear before Court and thereafter impugned order was passed - Writ petition had been filed against impugned

order passed under section 74(5) (supra) directing assessee to pay Rs. 56,95,19,461 towards differential tax, interest and penalty for evasion of due tax as illegal and arbitrary .

- iv.** It was held that there was no doubt that department had extended some opportunity to assessee for personal hearing .
- v.** However, assessee could not avail said opportunity in view of her old age as she being aged 75 years and also due to her ill health .
- vi.** Having regard to a high tax amount plus interest and penalty proposed to be laid and nature of contention raised by assessee, department ought to have extended some more opportunity to assessee for personal hearing.
- vii.** Therefore, without going into merits of assessee's case, department were directed to afford a personal hearing to assessee and pass assessment

order afresh in accordance with law on suitable terms [Section 74 of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017][Paras 8 to 11].

2. High Court Of Delhi in the case of Ajay Kumar Jindal Vs Superintendent, Ward 71 Central Goods and Services Tax(W.P.(C) NO. 258 OF 2023 Dated 23.03.2023)

- i. Petitioner's registration was cancelled on ground that petitioner was non-existent at its place of business.
- ii. Petitioner claims that it had transferred its sole proprietorship business and continued it under same name, in partnership with another individual, with effect from 31.07.2021 and obtained fresh registration with a new principle place of business
- iii. It was held that Petitioner had not filed requisite returns for transfer of stock and capital goods and had also not filed requisite information disclosing transfer of business to firm, thus

it was assumed that petitioner was non-existent.

- iv. Material on record indicates that petitioner was carrying on its business from its principle place of business in Delhi and had shifted it to Haryana.
- v. Since there was no allegation that petitioner had obtained its registration by means of fraud, wilful misstatement, registration could not be cancelled from date he had obtained same.
- vi. Therefore order cancelling petitioner's registration was to be set aside [Section 29 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017][Paras 28 and 32]
- vii. Petitioner claims that it had transferred its sole proprietorship business and continued it under same name, in partnership with another individual, with effect from 31.07.2021 and obtained fresh registration with a new principle place of business.
- viii. Petitioner's application for refund of ITC was rejected on ground that petitioner had not filed

requisite returns for transfer of stock and capital goods.

- ix. It was held by the Court that failure to file said return may invite necessary consequences under GST act but petitioner claim of ITC on account of inverted tax structure could be denied solely on said ground.

- x. Therefore order rejecting refund ITC was to be set aside and respondent should reconsider petitioner's application for refund **[Section 54 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017]**Paras 25 and 35.