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GST Newsletter

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Where order was issued which created a demand against assessee due to an error in claiming Input Tax Credit (ITC), wherein Integrated GST credit was claimed instead of Central GST and State GST credit, assessee replied to SCN stating that said error was a mere clerical mistake, impugned order lacked proper reasoning as it did not consider assessee's detailed reply adequately and was bereft of any reasoning and therefore, same was to be set aside-Delhi HC

Where assessee did not reply to show cause notice on ground that it was awaiting particulars from its supplier and thereafter impugned order was passed making entire tax liability with regard to disparity between GSTR-3B and GSTR-2B returns, if explanation of assessee was valid, interest of justice would be prejudiced unless assessee was provided an opportunity to explain alleged disparity-Madras HC

HC granted statutory benefit of stay to assessee on depositing 20% amount of tax in dispute due to non-constitution of Tribunal-Orissa HC

Where assessee, a wholesale dealer in kerosene, received a notice alleging discrepancies in filed returns, merely because representations from Tamil Nadu Kerosene Dealers Association for exemption from GST and exemption from TDS were pending consideration, assessee could not evade obligation to respond to a notice alleging discrepancies in returns filed by assessee, therefore instant writ petition was to be disposed of by permitting assessee to file a reply to notice in Form GST ASMT-10 within a period of two weeks-Madras HC

Where physically challenged accountant challenged frequent summons in GST investigation, High court upheld necessity of summons but reduced frequency for interrogation due to his limitations, requiring full cooperation throughout-Telangana HC

Where bail application was filed for offence registered under section 132(1)(c)(f) read with section 132(5) of CGST Act, matter was triable by magistrate, applicant had no criminal antecedents, charge-sheet was filed, offence compoundable in nature, co-accused enlarged on bail, bail application was to be allowed-Rajasthan HC

Zomato said that it has received an order for FY 2018-19 pursuant to the audit of GST returns and accounts by the Assistant Commissioner of Commercial Taxes (Audit), Karnataka. The order has raised the demand of GST of Rs 23.26 crore for FY19.

The Department of Revenue has asked the Central Goods and Services Tax (CGST) officials to seek a prior written nod of zonal Chief Commissioners before initiating any investigation in cases relating to big industrial houses and major multinational corporations (MNCs), as well as “sensitive matters or matters with national implications.

1. High Court of Kerala in the case of Vadakkoot Chackoo Devassy Vs Assistant State Tax Officer[WP(C) NO. 42265 OF 2023 Dated 21st December 2023]

Notice in Form GST ASMT-10 was issued to assessee and on very next day, a show cause notice under Section 73 came to be issued.

No official copy of notice either in GST ASMT-10 or show cause notice under Section 73 was issued to assessee physically and same were uploaded in GST portal.

Since assessee's registration was cancelled before issuance of said notices, assessee did not file reply to said show cause notices.

It was submitted that assessee was not granted any time in GST ASMT-10 so issued therefore, there has been violation of principles of natural justice in passing assessment order.

Held - Assessee was not afforded any time for filing reply to notice in GST ASMT-10. It was also not in dispute that assessee's GST registration was cancelled before said notices were uploaded on GST portal.

It was noted that there was violation of principles of natural justice and, therefore, impugned assessment order, was set aside [Section 73 of Central Goods and Services Tax Act, 2017/Kerala State Goods and Services Tax Act, 2017.

2. High Court of Calcutta in the case of Bivas De Vs State of West Bengal[MAT NO. 2400 OF 2023/IA NO. CAN 1 OF 2023 Dated 20th February 2024]

Assessee was alleged to have availed excess input tax credit. Rectification order was issued, and assessee challenged it via writ petition.

Revenue Authority had acknowledged rectification order, along with order passed in earlier writ petition, and found assessee's submission satisfactory, requiring no further action regarding Form GST DRC-01A. Despite this, a garnishment order against assessee and bank account attachment order remained in place.

HELD : In light of precedent cases such as **Badal Shambhubhai Shah vs. Directorate General of Goods and Service Tax Intelligence [2020] 118 taxmann.com 217 (Gujarat) and M/s. Futurist Innovation & Advertising vs. Union of India & Ors. 2022(1) TMI 698**, where directions were issued to Revenue authorities to lift attachments over bank accounts after one year had elapsed, same principle was deemed applicable to present case.

Consequently, writ petition and appeal were allowed, and Revenue Authority was directed to lift garnishee order and attachment over appellant's bank account [Section 83 of Central Goods and Services Tax Act, 2017/West Bengal Goods and Services Tax Act, 2017]