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GST Newsletter

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HC remanded matter since consultant of assessee hadn't informed him about initiation of proceedings- Madras HC

Where assessee's explanations in respect of show cause notice received were disregarded in assessment order and since no personal hearing was granted after assessee's reply to show cause notice, assessment order was to be quashed as principles of natural justice were not adhered to-Madras HC

Where Petitioner-assessee made accused for offences under sections 132(1)(b), 132(1)(c) and 132(5) of CGST Act for evasion of GST for three financial years, maximum punishment for offence five years, charge already framed, petitioner-assessee was to be released on bail, on conditions-Jharkhand HC

HC set aside order passed without applying mind when a detailed reply with full disclosures was furnished by assessee-Delhi HC

Where petitioner was not named in FIR, no incriminating evidence collected against him during investigation, was only named by co-accused in their respective disclosure statements, arrested on 21-1-2021 and in custody since then, offences triable and final report under section 173 Cr.P.C. already presented, petitioner was to be released on bail-Punjab and Haryana HC

Where GST registration of assessee had been cancelled retrospectively and assessee was not served with impugned SCN and order which was issued after registration was cancelled, matter was to be remitted to Proper Officer for re-adjudication-Delhi HC

Maximum punishment prescribed for offence alleged against petitioners being not beyond five years, Court was persuaded to take lenient view in favour of personal liberty of petitioners to exercise its discretion to grant bail to petitioners-Orissa HC

The AAR, Gujarat in the case of In Re. M/s. Suzuki Motors Gujarat Pvt. Ltd. [Advance Ruling No. GUJ/GAAR/R/2024/06 dated February 03, 2024] ruled that, GST is not payable on amount recovered for canteen facility provided to employer from permanent employees only. It was further held that, the Applicant is eligible to claim ITC on the amount paid to the supplier of service for providing canteen facilities to the extent of cost borne by the Applicant in relation to permanent employees only.

Where tax demand issued after cancellation of assessee's GST registration, pertaining to mismatch between GSTR 1 and GSTR 3B returns, assessee had little reason to continually monitor GST portal after cancellation, assessee to be provided opportunity to contest tax demand, impugned order was to be quashed-Madras HC

1. High Court of Delhi in the case of Chetan Garg Vs Avato Ward 105 State Goods and Service Tax[W.P. (C) NO. 4509 OF 2024/CM APPL. NO. 18423 OF 2024 Dated 5th April 2024]

Assessee filed an application for cancellation of registration on ground that assessee did not intend to carry on business under said GST number.

A query was raised on said application and assessee duly responded to same.

Application of assessee for cancellation was rejected. Assessee again applied for cancellation and filed instant application seeking direction to respondents to cancel GST registration of assessee.

It was submitted by department that certain show cause notices were issued to assessee for financial years 2018-19 to 2023-24.

HELD : Proceedings under DRC-01 were independent of proceedings for cancellation of GST registration and could continue despite cancellation of GST registration.

Recovery of any amount found due could always be made irrespective of status of Registration.

Merely pendency of DRC-01 could not be a ground to decline request of assessee for cancellation of GST registration.

Therefore, GST registration of assessee was to be treated as cancelled with effect from date from which assessee sought cancellation of GST registration [Section 29 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017].

2. High Court of Kerala in the case of Unity OOH Media Solutions (P.) Ltd. Vs Deputy State Tax Officer (Addl. Charge)[WP (C) NO. 42429 OF 2023 Dated 21.12.2023]

Petitioner-assessee had filed GSTR -1 and GSTR - 3B returns for period July 2017 to March 2018 till financial year 2017-2018 and had claimed input tax credit for tax period on purchase of goods, effected from registered dealers, in accordance with law, through GSTIN online portal.

Petitioner was issued notices from GSTIN portal. Petitioner could not file a reply to notices issued - In absence of reply to show cause notices issued and personal hearing, respondent-department passed assessment order, allowing only a certain amount of input tax credit as claimed by petitioner for assessment year 2017-2018 and refusing rest as petitioner had filed GSTR 1 and GSTR 3B within enlarged time and certain suppliers had not filed GSTR- 1 before due date i.e. 30.04.2019, entire ITC claim had been rejected under Section 16(4).

Indirect Tax Updates

Held: In *Diya Agencies v. The State Tax Officer* dated 12.09.2023 in WP(C) No. 29769/203, it was held that assessment order with regards to denial of input tax credit to petitioner was not sustainable, and matter was remanded back to Assessing Officer to give opportunity of hearing to petitioner for his claim for input tax credit.

Following aforesaid order, matter was remitted back to respondent and petitioner was directed to appear before respondent with all evidence and report denying input tax credit, which is evident in assessment order. [Section 16 of Central Goods and Services Tax Act, 2017/Kerala Goods and Services Tax Act, 2017]