

## A.C. BHUTERIA & Co.

CHARTERED ACCOUNTANTS

16, STRAND ROAD  
DIAMOND HERITAGE, ROOM 703  
KOLKATA - 700001

PH: 033-46002382 / 40042183  
EMAIL: [INFO@ACBHUTERIA.COM](mailto:INFO@ACBHUTERIA.COM)

[www.acbhuteria.com](http://www.acbhuteria.com)

## GST Newsletter

---

April 29, 2024

---

### NEWS FEED

Where order was issued to assessee, pertaining to three issues: issuance of credit notes, treatment of freight charges, and denial of Input Tax Credit, assessee had also bifurcated amounts paid towards freight, enclosed both a reconciliation statement and a statement from Chartered Accountant in respect of such bifurcation, there were discrepancies in assessing officer's observations regarding evidence presented by assessee, except for holding that tax payer had availed Input Tax Credit which was blocked credit under Section 17(5), no reasons were specified as to why such Input Tax Credit was denied, therefore impugned order was to be set aside and remanded matter for reconsideration-Madras HC

As per section 50(1) interest liability arises automatically on delayed filing of returns, irrespective of whether payment is made from Electronic Credit Ledger or Electronic Cash Ledger-Patna High Court

Where impugned show cause notice was issued to assessee, engaged in importing coal on FOB basis, primarily relying on Notification No. 8/2017-Integrated Tax (Rate) dated 28-6-2017, said notification having been declared ultra vires to IGST Act, 2017, petition of assessee assailing impugned notice was to be allowed-Bombay High Court

Where show cause notice issued to assessee did not contain adequate information as to alleged nature of mismatch between GSTR 3B and GSTR 2A returns, and also impugned assessment order was passed without affording opportunity of hearing to assessee, same was to be set aside and matter was to be remanded for reconsideration-Madras HC

Where assessee was not properly informed about retrospective cancellation and was not given a reasonable opportunity to object retrospective cancellation, therefore order cancelling assessee's registration retrospectively was to be modified to limited extent that registration should now be treated as cancelled with effect date when assessee discontinued his business-Delhi HC

Delay in invoking proviso to rule 23 by assessee was to be condoned and application for revocation of cancellation of registration was to be considered in accordance with law by competent authority as long as assessee deposited all taxes, interest, late fee, penalty etc. due and comply with other formalities-Orissa HC

Where assessee's ITC claim arose out of purchases from a supplier based in West Bengal who had made a mistake by filing return in Form GSTR-1 by specifying total IGST as zero and therefore total taxable value was apportioned between CGST and SGST and upon realizing error, supplier rectified same while filing return in Form GSTR-3B, impugned order denying input tax credit to assessee was to be set aside matter was to be remanded-Madras HC

Many businesses, who were served with goods and services tax (GST) notices in December 2023 and January of this year following the extension of the notice issuance deadline, have taken their grievances to various high courts, contesting the legal legitimacy of the notices.

**1. High Court of Madras in the case of Johnson Bevisedmond Vs Joint Commissioner of GST & Central Excise[W.P. NOS. 34646 & 34651 OF 2023/W.M.P. NOS. 34597 & 34604 OF 2023 Dated 18.12.2023]**

Assessee was provided two opportunities of personal hearings.

However, since assessee had shifted his residences and therefore, he had received said notices belatedly. Further, since assessee was held up in conducting examinations, he was not able to appear for aforesaid personal hearings.

It was submitted by assessee that said impugned order has been passed by assessee in violation of principles of natural justice.

It was requested set aside impugned order for deciding matter after affording opportunities of personal hearing and to permit filing appeal, without insisting for limitation.

Held-Assessee was granted liberty to assessee to approach appellate authority. Appellate authority was directed to entertain appeal filed by assessee without insisting issue of limitation. Stay was also granted till time of filing appeal [Section 107 of Central Goods and Service Tax Act, 2017/Tamil Nadu Goods and Service Tax Act, 2017].

**2. High Court of Calcutta in the case of Maxxcab Wires & Cables (P.) Ltd. Vs The State of West Bengal[WPA NO. 9308 OF 2024 Dated 09.04.2024]**

Petitioner-assessee had challenged order imposing penalty for transporting vehicle after expiry of e-way bill.

There was a gap of about 18 hours between expiry of bill and interception, which was less than a day and assessee contended that there was no intention to evade tax on part of assessee and there was a genuine problem of break down of vehicle.

HELD: Revenue could not make out any case against assessee that there was any deliberate or wilful intention of assessee to avoid and evade tax.

Therefore in view of facts and circumstances impugned order imposing penalty was to be set aside [Section 129 of Central Goods and Services Tax Act, 2017/West Bengal Goods and Services Tax Act, 2017].