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GST Newsletter

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Where assessee filed writ petition seeking a direction to GST Authorities to grant refund besides interest for delayed refund, petition was to be disposed of with direction to GST Authorities to consider application seeking refund of assessee and dispose of same within a period of four weeks-Delhi HC

Where Show Cause Notice proposing to reject refund application was issued by an incompetent officer, and Adjudicating Authority passed order rejecting refund application and same was also upheld by Appellate Authority vide impugned order while admitting that SCN was issued by incompetent officer, Appellate Authority could have only quashed SCN and proceedings emanating therefrom while reserving right of Proper Officer to initiate appropriate proceedings, thus impugned order was to be set aside to extent that it decided claim of assessee on merits-Delhi HC

HC remanded matter & directed dept. to provide an opportunity to assessee to contest tax demand on merits-Madras HC

Proper officer is required to seek further clarification/documents from assessee if reply of assessee is unsatisfactory-Delhi HC

Where GST Authorities had issued a show cause notice proposing to cancel registration of assessee on ground that assessee did not exist at registered premises, authority was to be directed to adjudicate show cause notice within thirty days after giving an opportunity of personal hearing to assessee and also conduct a fresh visit to said premises prior to passing a final order-Delhi HC

DGGI can initiate proceedings for clandestine supply even if SGST dept. already investigating transaction with one supplier-Orissa HC

In a major breakthrough, the Pune zonal unit of the Directorate General of GST Intelligence (DGGI) has busted a multi-state fake input tax credit (ITC) racket worth over Rs 145 crore and arrested one person from Rajasthan

Where assessee filed petition contending that assessee was not required to pre-deposit any amount for filing appeal as input credit which was sought to be blocked by department, since dispute pertained to denial of input tax credit, assessee could not deposit any amount from its electronic credit ledger and assessee had to deposit 10 percent of disputed amount from its electronic cash ledger, thus petition of assessee was to be dismissed-Madras HC

The GSTN issued an Update dated May 16, 2024, stating that now GST payment facility, through UPI and Debit card/Credit card, is also available in Jammu & Kashmir, now total States/UTs is 16.

The Supreme Court told the Centre that there is no need for making arrests in all Goods and Services Tax (GST) cases and that it can be done only if there is credible evidence and tangible material to prove culpability

Jharkhand HC initiated contempt proceedings as JBVNL failed to make payment of GST component as directed by it

1. High Court of Orissa in the case of Trilok Industries Vs Chief Commissioner of CT and GST[W.P.(C) NO. 8904 OF 2024 Dated 16.04.2024]

Joint Commissioner of CT & GST rejected appeal filed by assessee against demand on ground that there was non/short-payment of admitted tax/interest/penalty & 10 percent disputed amount. Assessee filed writ petition seeking to quash rejection order.

Held: as against total demand of Rs.42,822 if CGST & SGST @ 10 percent each was calculated, it came out Rs.4282 each, i.e., in total Rs.8564. Assessee had already paid tax amounting to Rs.12,244 which was in excess to demand amount therefore, appellate authority while passing impugned order had not taken into consideration of said fact.

Appellate authority without application of mind and without assigning any reason had passed impugned order. Order passed by Joint Commissioner rejecting appeal filed by assessee was quashed [Section 107 of Central Goods and Services Tax Act, 2017/Odisha Goods and Services Tax Act, 2017].

2. High Court of Delhi in the case of Vishal Chem (India) Vs Assistant Commissioner, Department of Trade and Taxes[W.P. (C) NO. 5288 OF 2024/CM APPL. NO. 21601 OF 2024 Dated 10.04.2024]

Perusal of Show Cause Notice showed that department had given separate headings

i.e., under declaration of output tax; tax on outward supplies under declared on reconciliation of data in GSTR-09; excess claim input tax credit [ITC]; scrutiny of ITC availed and ITC claimed from cancelled dealers, return defaulters & tax non payers.

To said Show Cause Notice, detailed reply was furnished by assessee giving disclosures under each of heads – Impugned order, however, after recording narration recorded that reply uploaded by assessee was unsatisfactory.

Assessee filed petition challenging impugned order on ground that impugned order did not take into consideration reply submitted by assessee and was cryptic order.

HELD: impugned order was not sustainable for reasons that reply filed by assessee was detailed reply – Proper Officer had to at least consider reply on merits and then form opinion but he merely held that reply was unsatisfactory, which ex-facie showed that Proper Officer had not applied his mind to reply submitted by assessee. If Proper Officer was of view that any further details were required, same could have been specifically sought from assessee however, record did not reflect that any such opportunity was given to assessee to clarify its reply or furnish further documents/details.

Matter was remitted to Proper Officer for re-adjudication [Section 73 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017].