

A.C. BHUTERIA & Co.

CHARTERED ACCOUNTANTS

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

PH: 033-46002382/ 40042183
EMAIL: INFO@ACBHUTERIA.COM

www.acbhuteria.com

GST Newsletter

June 03, 2024

NEWS FEED

Where two different officers of same jurisdictional office had passed two separate orders creating demand of identical amount against assessee for tax period July, 2017 to March, 2018, said orders were to be set aside and proceedings on show cause notices were to be re-adjudicated by one proper officer-Delhi HC

Adjudication order set aside for not seeking assessee's detailed reply on ITC discrepancies, case remanded for re-adjudication-Delhi HC

Where petitioner had paid tax under wrong head on 20-12-2017 and paid tax under correct head on 19-8-2019 thereby leading to a double deposit of tax, refund application filed on 11-5-2020 was within limitation as per Circular No. 162/18/2021-GST dated 25-09-2021 and, thus, order of Appellate Authority dismissing appeal of petitioner on ground of delay was to be set aside-Delhi HC

GST is not required to be included while quoting financial bid for providing manpower-Bombay HC

HC held that the SCN served on the common portal even if not served physically is considered as served under GST-Orissa HC

The Telangana, AAR in the matter of M/s. Noori Travels [TSAAR ORDER NO.08/2024 dated May 01, 2024] ruled that the credit on motor vehicle cannot be claimed by assessee if supplier has shown the transaction in the period wherein the recipient was claiming the benefit of lower tax rate on the ground that the GSTR-1 filed by the supplier being a statutory return should be given more weightage than the invoice copy raised by the supplier-AAR Telengana

GST Council is likely to recommend issuance of a circular for releasing refunds due as a result of inverted duty structure and subsidy.

Insurance companies have sought a reduction in GST rates on life insurance products from the current 18% to 12%, citing that high rates are pushing people to opt out of life insurance and go for alternatives, according to sources.

Where assessee/petitioner challenged show cause notices for GST and cess on alleged clandestine cigarette supply, High Court directed revenue to release non-relied documents, grant 30 days for reply, provide personal hearing, and permit cross-examination of witnesses at an appropriate stage-Madhya Pradesh HC

Court directed the department to grant opportunity of hearing before passing the order of provisional attachment-Orissa HC

HC directs officer to consider all contentions raised by assessee objectively without any pre-determination-Madras HC

Bringing natural gas under GST will lead to faster adoption: Oil secy

Manual application filing for refund allowed where portal was closed and the same cannot be done online: AP HC

Indirect Tax Updates

1. High Court of Allahabad in the case of Ms. Sangeeta Jain Vs Union of India[WRIT TAX NO. 783 OF 2023 Dated 22.04.2024]

Case of Petitioner-assessee was that only ground on basis of which penalty under section 129(3) was imposed was that dispatch address mentioned in e-way bill.

Goods in truck matched with invoice and e-way bill and there was no other discrepancy.

Furthermore, impugned orders did not, in any manner, indicate any intention to evade tax.

HELD : A perusal of order imposing penalty indicated that original authority had stated that mens rea was not required for imposition of penalty - This view was not correct in law and conclusion reached thereafter was obviously illegal.

In view of order passed in Hindustan Herbal Cosmetics v. State of U.P. [2024] 158 taxmann.com 200 (Allahabad), wherein it was held that mens rea to evade tax was essential for imposition of penalty, impugned order imposing penalty could not be sustained in eyes of law and same were to be quashed [Section 129 of Central Goods and Services Tax Act, 2017/ Uttar Pradesh Goods and Services Tax Act, 2017].

2. High Court of Madras in the case of L & T Finance Ltd Vs Assistant Commissioner[W.P. NO. 9652 OF 2024/W.M.P. NOS. 10682 & 10683 OF 2024 Dated 12.04.2024]

Show Cause Notice was issued to petitioner-assessee by respondent-department. Petitioner replied to aforesaid show cause notice.

However, assessment order was issued against petitioner by respondent. Assessment order was assailed primarily on ground of breach of principles of natural justice.

Held: In response to personal hearing notice from respondent, petitioner issued communication stating that petitioner was currently occupied with filing of annual returns for financial year 2022-2023. Therefore, petitioner requested a deferment of personal hearing scheduled on another date.

From impugned order, it appeared that this request was not entertained and assessment order was issued. Although order referred to a personal hearing notice issued on 31.12.2023, there was nothing on record to indicate that such personal hearing notice was issued. For reasons set out above, impugned assessment order was set aside and matter was remanded for reconsideration [Section 73 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017]