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## GST Digest

- Recent case laws

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Where Competent Authority had issued a show cause notice proposing a demand against assessee on ground that ITC was availed from suppliers whose registration was cancelled and assessee had filed a detailed reply, but Competent Authority did not take into consideration reply submitted by assessee and passed a cryptic order, matter was to be remitted to Competent Authority for readjudication- Delhi HC

Where respondent-department passed an assessment order against petitioner-assessee in which it was unclear as to basis for imposing GST on total trade payables and how liability was imposed with regard to employee benefit expenses incurred by petitioner-assessee, therefore, impugned order was to be set aside and matter was to be remanded for reconsideration-Madras HC



Where assessment order is based on subsequent year's financial statement instead of relevant year, breaching natural justice principles, High Court requires reconsideration and mandates assessee/petitioner to remit Rs. 10 lakhs towards disputed tax under Section 73 of CGST Act before fresh assessment-Madras HC

Where Proper Officer passed order under Section 73 of CGST Act without considering detailed reply and supporting documents filed by assessee, High Court set aside order as non-speaking and remanded matter back to Proper Officer for fresh adjudication after giving opportunity of hearing to assessee-Delhi HC

AAAR condoned delay of 30 days in filing appeal since medical issues were faced by authorized representative-AAAR Tamil Nadu

Where proceeding initiated by invoking extended period as provided under section 74 of CGST Act, show cause notice and order, clearly spelt out basis for invocation of extended period, including suppression of fraudulent availment of input tax credit by way of wilful misstatement, correctness of findings and sufficiency/proof of such allegations could not be called in question by invoking extraordinary writ jurisdiction of Court-Calcutta HC

Where assessee/petitioner challenged CGST/TNGST adjudication orders without evidence opportunity, High Court directed filing statutory appeals, permitting evidence submission before appellate authority to address the deficiency in writ petitions-Madras HC

Exporter is not liable to pay GST on export freight; liability would lie with Indian shipping line/freight forwarder-Tamil Nadu AAR

Where Section 17(5)(d) states that term "construction" includes re-construction, renovation, additions or alterations or repairs, to extent of capitalization, to said immovable property and "Rotary Car Parking System" falls under ambit of additions as envisaged in said explanation clause, to immovable property, therefore, Input Tax Credit is not admissible under section 17(5)(d) on Rotary Parking System desired to be installed by applicant-assessee-Tamil Nadu AAR

GST probe wing set to widen scrutiny of pharma companies.

**1. High Court of Madras in the case of Engineering Projects India Ltd.Vs Additional Commissioner[W.P. NO. 7096 OF 2024-WMP NO. 7938 OF 2024-18.03.2024]**

Assessment order passed against assessee/petitioner reversing input tax credit.

Assessee/Petitioner challenged order contending assessing officer failed to follow CBIC press release dated 04.05.2018 requiring input tax credit not to be reversed merely because seller did not remit taxes.

HELD: Writ petition dismissed - Principles of natural justice complied with by providing opportunity to assessee/petitioner to contest tax demand and personal hearing.

Assessee/Petitioner given chance to respond to intimation, show cause notice and submit written synopsis before passing assessment order.

No grounds to exercise writ jurisdiction. Assessee/Petitioner left free to avail statutory remedy [Section 5 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017]

**2. High Court of Allahabad in the case of NS Agro and Engineering Products Vs State of UP[WRIT TAX NO. 672 OF 2024-16.05.2024]**

Opportunity of personal hearing not granted before passing order under Section 74(9) of CGST Act.

Violation of Section 75(4) mandating personal hearing. Principles of natural justice violated HELD: Writ petition disposed of .Impugned order set aside - Matter remanded to assessing authority to pass fresh order after granting

opportunity of personal hearing - Commissioner directed to take remedial measures and initiate disciplinary proceedings against erring officials for violation of natural justice [Section 74 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].