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GST Digest

- Recent case laws

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Since development authority denied completion certificate to applicant, therefore, 'first occupation' cannot be said to be taken by applicant; sale of residential units in Phase IV of project by applicant is not sale of immovable property, but, sale of services and GST is leviable-AAR UP

Where assessee/applicant sought advance ruling on GST applicability for sale of goods in a third-party Free Trade Warehousing Zone on "as is where is" basis to a customer clearing them to bonded warehouse under MOOWR Scheme, AAR held that such transactions are not liable to GST under Clause 8(a) of Schedule III of CGST Act, 2017-AAR Tamil Nadu



Where assessee impugned orders that disposed of show cause notices, impugned orders passed solely on ground that reply had not been submitted by assessee, opportunity was to be granted to assessee to file reply to show cause notice, impugned orders were to be set aside-Delhi HC

Where assessing officer passed assessment order without considering assessee's contention that services were exempt, High Court quashed order, requiring assessee to deposit 10% of disputed tax and allowing submission of additional documents to support exemption claim-Madras HC

Where GST registration of two fake firms using details of informant obtained, participation of some accused surfaced initially on basis of information received through secret informer, subsequently names of accused involved in said work started to be disclosed by accused persons whose complicity surfaced and were arrested, Input Tax Credit availed on forged papers, custodial interrogation of accused required for further investigation, incident an economic offence, anticipatory bail was to be rejected-Allahabad HC

Where consultancy services for building works are provided to State Government's Roads and Buildings Department, such activity would not qualify as exempt supply of "pure service" related to functions under Article 243G or 243W of the Constitution-Gujarat AAR

Where assessee submitted detailed replies to show cause notice with supporting documents, but officer issued cryptic order without merit consideration, High Court set aside the order, remanding for re-adjudication with opportunity for further reply and hearing-Delhi HC

With the third edition of the Narendra Modi government in place at the Centre, the the Hotel And Restaurant Association (Western India) has urged the government to revisit the existing GST structure for F&B served in restaurants within hotels which is presently linked to room charges exceeding Rs.7500.

India's oil minister, has announced plans to bring petrol, diesel, and natural gas under the Goods and Services Tax (GST) as part of the new cabinet. It has emphasized that the government is not in favor of stake sales in state-run oil firms, following the scrapping of the Bharat Petroleum Corporation Ltd (BPCL) divestment process in 2022.

International Road Federation calls for reducing GST on helmets from 18% to nil.

1. High Court of Delhi in the case of Samsung India Electronics (P.) Ltd Vs Union of India[W.P. (C) NO. 7351 OF 2024 Dated 21.05.2024]

Show cause notice and order passed thereon challenged.

Assessee filed detailed reply with supporting documents. Proper officer did not consider reply and passed order stating reply not substantial to counter audit observations.

HELD: Writ petition disposed of - Order set aside as unsustainable - Proper officer did not apply mind to assessee's reply - Violative of principles of natural justice - Assessee entitled to reasonable opportunity to respond - Show cause notice remitted for re-adjudication after providing opportunity to assessee to file further reply and personal hearing - Fresh speaking order to be passed in accordance with law [Sections 73, 75 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017].

2. High Court of Delhi in the case of Future Generali India Insurance Co. Ltd Vs Goods and Service Tax Officer (GSTO)[W.P. (C) NO. 7417 OF 2024/CM APPL. NO. 30942-43 OF 2024 Dated 22.05.2024]

A show cause notice was issued to assessee for under declaration of output tax; tax on outward supplies under declared on reconciliation of data in GSRT-09; excess claim of ITC; scrutiny of ITC reversals etc.

A detailed reply was furnished by assessee giving response under each of heads with supporting documents.

Impugned order was passed raising demand and penalty against assessee - Assessee submitted that impugned order did not take into consideration reply submitted by assessee.

HELD : Impugned order recorded narration that reply uploaded by assessee was not properly replied/filed and same could not be sustained for reason that reply filed by assessee was a detailed reply with supporting documents - If any further detailed were required, same could have been specifically sought from assessee, however no such opportunity was given to assessee - Impugned order could not be sustained - Show cause notice was to be remitted for re-adjudication [Section 16 of Central Goods and Services Tax Act, 2017/ Delhi Goods and Services Tax Act, 2017]