



A.C. Bhuteria & Co.
Chartered Accountants

16, Strand Road, Diamond Heritage,
Room No. H-703,
Kolkata – 700001

Ph: 033-46002382/ 40032841
Email id: info@acbhuteria.com

GST Digest

- Recent case laws

July 01, 2024

GST Newsletter



Banks Seek Clarity on GST Applicability on Penal Charges and Request More Time for Implementing Customer Consent Rules for Marketing Communications

GST Council to Reconstitute Three Groups of Ministers Following Induction of New Members

In the 53rd GST council meet held on Saturday, the government decided to exempt both penalty and interest provided they pay the principal tax demand by March 31, 2025. The notices covered under this exemption are for tax escaped during the period between FY18 and FY20. The exemption will only apply to cases where there was tax shortfall and doesn't cover the cases which involve fraud or misstatements like fake Input Tax Credit (ITC) claims.

The Indian Auto LPG Coalition (IAC) on Monday urged the Finance Ministry to reduce the GST rate on auto LPG from the current 18 per cent to 5 per cent, which will help in curbing illegal diversion and make them more affordable for consumers.



No embargo on inspecting officer to issue SCN & adjudicate the issue as long as he is proper officer under GST Act-Madras HC

Where registration of assessee was cancelled for non-filing of returns, since it was not case of revenue that petitioner had been adopting dubious process to evade tax, said order was to be set aside subject to condition that assessee filed its returns for entire period of default and paid requisite amount of tax, interest, fine and penalty-Calcutta HC

Where petitioner contended that seizure of goods was made without proper opportunity to explain discrepancy in E-Way bills, High Court quashed seizure order and remanded matter to revenue authorities to decide afresh after giving opportunity to petitioner-Allahabad HC

Where assessee/petitioner challenged order demanding payment for erroneous refund without providing sufficient particulars, High Court quashed impugned order and remanded matter, directing respondents to issue fresh show cause notice with relevant details to enable assessee/petitioner to respond meaningfully-Madras HC

Where show cause notice proposing a demand against assessee was uploaded on portal in category of 'Additional Notices' and was not communicated to assessee through any other mode of communication, impugned order disposing of show cause notice was to be set aside-Delhi HC

Where assessee/petitioner contended that proper officer did not consider detailed replies to show cause notice before passing demand order, impugned order was set aside and matter was remanded back to proper officer for re-adjudication after giving opportunity to assessee/petitioner to file further reply and personal hearing-Delhi HC

Imposition of penalty was justified since assessee had deliberately not paid GST under RCM-Gujarat HC

1. AAR West Bengal in the case of Paragon Polymer Products (P.) Ltd., In re [Order No. 27/WBAAR/2023-24 dated December 20, 2023]

The Advance Ruling Authority of West Bengal observed that the Applicant intends to enter into agreements with different vendors to whom they outsource the process of manufacturing footwear/parts of footwear.

In this process, the Applicant procures raw materials and supplies to those outsourced vendors raising tax invoices. In return, vendors make outward supplies of finished goods to the Applicant for which payment is settled through book adjustment against debt created on the buy-back model.

Therefore, the Applicant plays as supplier while supplying raw materials and emerges as the recipient when purchasing finished goods from those outsourced vendors.

The AAR opined that the provision of Section 16(1) and (2) of the CGST Act, restricts credit of input tax to the recipient unless he pays the consideration to the supplier for inward supplies received by him along with tax payable thereon within the stipulated time limit of one hundred and eighty days from the date of issue of invoice and noted that the term 'consideration' has been defined in clause (31) of Section 2 of the CGST Act in an inclusive manner that extends the scope and range for mode of payment.

Further, as per the said definition it is immaterial whether the payment is made by the recipient or by any other person.

Further, when there is barter of goods or services, the same activity constitutes supply as well as a consideration. The AAR held that the settlement

of mutual debts through book adjustment is a valid mode of payment under the CGST Act.

2. Bombay High Court in the case of Prasanna Kumar Shetty v. State of Maharashtra and Others[Writ Petition No. 3098 of 2024 dated April 16, 2024]

The Honorable Bombay High Court observed that as per Section 79 of the Central Goods and Services Tax Act, 2017, the principal liability is not on the Petitioner who is not a registered person as per sub-section (1) of Section 79 of the CGST Act. Further observed that Section 89 of the CGST Act provides that before taking any action of recovery against the Directors of the Company, the Concerned Officer should be satisfied that the person concerned against whom recovery is to be made is the Director of the Company for the concerned period. Further, it is after the aforesaid satisfaction of the Officer that such person was the director of the Company; the liability could be fastened against the Director.

The Honorable Court noted that the factual issues needed to be verified before the passing of the Impugned Attachment Order by the concerned officer, by issuing the SCN to the Petitioner calling upon him to show cause that the amount due and payable by the Company is liable to be recovered from the Petitioner under Section 79, read with Section 89 of the CGST Act.

The Honorable Court opined that neither any SCN was issued nor any opportunity for personal hearing was granted to the Petitioner before the passing of the Impugned Attachment Order and held that the writ petition is allowed and the Impugned Attachment Order is set aside.