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GST Digest

- Recent case laws

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Electronic filing of appeal within prescribed time limit considered valid, despite later submission of physical copies; appeal held to be filed within time-AP HC

ITC not allowed on construction of breakwater wall used for protecting vessel from tides while unloading LNG-Bombay HC

Where assessee challenged show cause notice issued by Additional Director of DGGI under Section 74(5) of CGST Act on grounds of lack of competence, writ petition was dismissed, holding that Additional Director is competent to issue such notice as per relevant circular-Patna HC

Where assessee impugned cancellation of registration in writ petition and filed appeal against cancellation after expiry of limitation period, which was rejected, did not avail remedy of Amnesty Scheme issued vide Circular No. 3 of 2023, did not in memorandum of petition controvert allegation that he failed to furnish returns for a continuous period of six months, writ petition was to be dismissed-Patna HC



Where petitioners arrested for irregular availment of input tax credit despite not receiving associated services, transfer of such irregularly claimed input tax credit without providing any services during relevant period, no apprehension for prosecution that petitioners would tamper with evidence or interfere with ongoing investigation, anticipatory bail was to be granted to petitioners-AP HC

Where classification of goods is disputed, fresh hearing and de novo order was directed, allowing assessee to present detailed evidence, subject to partial deposit of disputed tax-Madras HC

Where applicant-assessee is eligible to avail input tax credit on said contract staffing services, therefore, subject to fulfilment of conditions specified under Section 16, applicant-assessee is eligible to avail input tax credit on 'contract staffing services' under section 16(1)-Tamil Nadu AAR

Where impugned order imposed tax liability in respect of mismatch between GSTR 3B return and auto populated GSTR 2A, apart from referring to circular 123/42/2019-GST, dated 11-11-2019 and pointing out that GSTR 2A was notified by said circular, no other documents enclosed with reply, assessee in position to establish that only eligible ITC was claimed, opportunity was to be provided to assessee, impugned order was to be set aside-Madras HC

Where order passed without opportunity of hearing under Section 75(4) of CGST Act, interim stay granted on coercive action pending petition-Gujarat HC

Writ petition challenging GST assessment order not maintainable when statutory appeal remedy not availed within prescribed time limit-Rajasthan HC

Where upon receiving a show cause notice, assessee replied to SCN explaining discrepancy between their returns and recipient's GST 7 return, but despite explanation, revenue issued an order concluding that said reply was not genuine, since impugned order was completely unreasoned, it could not be sustained and therefore same was to be set aside and matter was remanded for reconsideration-Madras HC

1. Allahabad HC in the case of RS Industrial Solutions Vs Additional Commissioner[WRIT TAX NO. 684 OF 2024 Dated 02.05.2024]

Technical error without tax evasion intent. Assessee/Petitioner contended that non-filing of Part-B of e-way bill was technical error without intention to evade tax.

Revenue imposed penalty under Section 129(3) of GST Act for non-compliance.

HELD: Writ Petition allowed - Mere non-filing of Part-B of e-way bill without proof of intention to evade tax does not warrant penalty.

Invoice contained vehicle details, substantiating lack of tax evasion intent. Orders imposing penalty quashed [Section 129(3) of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017]

2. Delhi HC in the case of SK Creations Vs Commissioner of Central Tax and GST[W.P. (C) NO. 8306 OF 2023 Dated 29.05.2024]

By Order-in-Original, part refund was granted to assessee and part refund was rejected on ground that export proceeds were not realized despite lapse of nine months.

Assessee impugned Order-in-Original and Order-in-Appeal whereby, appeal filed by assessee challenging Order-in-Original was rejected.

Case of assessee was that exports proceeds were duly realized for reason that sales were made to Nepal and currency in which sale proceeds were to be received was INR and INR was duly received.

Respondents upon directions, verified contention of assessee and submitted that entire proceeds of

export invoices had been received and in INR had matched.

HELD: In view of above, impugned Order-in-original to limited extent that it rejected part refund of assessee and impugned Order-in-Appeal were to be set aside [Section 54, read with section 100 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017].