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## GST Digest

- Recent case laws

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HC set aside order raising demand since differential tax was already paid by assessee while filing return in Form GSTR 3B-Madras HC

Where assessment order under GST Act passed without considering assessee's reply to show cause notice, order quashed and remanded for fresh consideration with opportunity of hearing-Madras HC

Where adjudication notice was issued on ground of fraud and assessee contended that registration of its firm under pre-existing law stood surrendered and it never obtained registration under CGST Act, since fact disputes had been raised and no inherent lack of jurisdiction had been shown to exist, interference claimed at instant stage by High Court was to be declined-Allahabad HC



Where assessee failed to reply to show cause notice for mismatch between GSTR-1 and GSTR-3B and tax proposal was confirmed, interest of justice warranted that an opportunity be provided to assessee to contest tax demand, thus, order confirming tax proposal was to be set aside and matter was to be remanded-Madras HC

Where assessee's grievance was that Authorities had deducted GST at rate of 18 per cent for contract which was entrusted to them in year 2009 and completed before year 2015 whereas at that point of time VAT was prevalent, assessee was granted liberty to approach appropriate Authorities for refund of GST which had been illegally deducted-Patna HC

Where assessee filed writ petitions against impugned order rejecting refund claim, however failed to establish that any of fundamental right had been violated or there had been any violation of principles of natural justice, writ petition was to be dismissed-Gauhati HC

Where penalty was imposed on detained goods without providing relied-upon lab report or proper hearing, order set aside with directions to furnish adverse material, allow reply, and pass fresh order after hearing-Allahabad HC

Writ petition challenging GST liability for alleged business transfer dismissed, directing exhaustion of statutory appeal remedy before judicial review-Andhra Pradesh HC

Equipment without which ship wouldn't be complete & can't function to be classified as parts of ship-AAR Andhra Pradesh

GST registration cancellation order set aside, directing restoration upon filing pending returns and paying dues within specified timeframe-Calcutta HC

Where applicant-assessee have rented out a building to Department of Social Welfare and aforesaid service is in relation to function entrusted to a Panchayat under Article 243G of Constitution of India, 1950, therefore, pure services provided by applicant-assessee to State Government are exempted as per Entry No. 3 of Notification No. 12/2017 Central Tax (Rate) dated 28-6-2017, hence, it is not taxable-AAR Karnataka

**1. Madras HC in the case of Indian Potash Ltd Vs Deputy Commissioner (ST)[W.P. NOS. 12101, 12103 & 12105 OF 2024 dated 03.06.2024]**

Assessee filed appeals on GST portal against refund rejection orders within prescribed time limit but failed to submit physical copy of impugned orders within 7 days as required under Rule 108(3) of GST Rules. Appellate authority did not process appeals due to non-filing of physical copies.

HELD: Writ petitions disposed of. Non-production of hard copy of impugned order is only technical defect. Appeals to be processed by treating date of filing on portal as date of filing, provided appeals were filed within prescribed time limit.

Appellate authority directed to number appeals within one month if otherwise in order [Rule 108(3) of Central Goods and Services Tax Rules, 2017/Tamil Nadu Goods and Services Tax Rules, 2017].

**2. Madras HC in the case of Tvl. Shivam Steels Vs Assistant Commissioner (ST)(FAC)[W.P. NO. 15335 OF 2024/W.M.P.NOS.16659 & 16661 OF 2024 Dated 25.06.2024]**

Assessee received a show cause notice with regard to reversal of ITC in respect of credit notes issued by supplier. Impugned order was passed thereafter.

Assessee submitted that value of supply would not include a discount only if conditions prescribed in clause (a) or (b) of section 15(3) were satisfied.

As per assessee, case at hand did not fall within scope of section 15(3), thus he contended that credit notes issued by supplier were financial credit notes and assessee was not liable to reverse ITC to extent of value of credit notes.

Assessee submitted that in impugned order, discount offered by supplier was erroneously construed as service provided by purchaser to supplier, thus same called for interreference.

HELD : Assessing officer concluded that taxable person was providing a service to supplier while taking benefit of a discount by facilitating an increase in volume of such supplier.

Said conclusion was ex facie erroneous and contrary to fundamental tenets of GST law.

Impugned order was to be set aside only in so far relating to reversal of ITC for volume of credit notes issued by supplier was concerned and matter was to be remanded for reconsideration by original authority [Section 16 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017].