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GST Digest

- Recent case laws

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Where assessee paid tax dues after inadvertently availing ineligible input tax credit, 100% penalty order under Section 74 set aside, remanded for reconsideration with opportunity for assessee to be heard-Madras HC

The GSTN has issued an advisory to inform that it has developed an online functionality to enable CSDs to file an application for refund in FORM GST RFD-10A in GST common portal. The taxpayers may Login into the GST portal. Click on Services -> Refund -> Application for Refund and then Select "Refund of tax paid on Inward supply of goods by Canteen Store Department(CSD)".

Where assessee filed application under section 161 for rectification of certain mistakes in an assessment order, but impugned order was passed without hearing assessee, same was to be set aside and matter was to be remitted to pass fresh orders after hearing assessee-Madras HC



Where assessee challenged impugned assessment order in writ petition within period of limitation prescribed under section 107, there being no procedural violations in impugned order, petition of assessee was not to be entertained-Madras HC

Show Cause Notice and impugned order issued cancelling GST registration of assessee were bereft of any details as neither show cause notice, nor order spelled out reasons for retrospective cancellation-Delhi HC

Where assessee contended that reply was filed before impugned order was passed and Form GSTR-2A, GSTR-8A and GSTR-9 demonstrated no excess claim of Input Tax Credit, impugned order was set aside and remitted matter back to Proper Officer for re-adjudication after examining assessee's reply and giving opportunity of personal hearing-Delhi HC

Where, respondent-DGGI issued show cause notice regarding alleged inadmissible Input Tax Credit availed by assessee, blocked amount from available ITC in assessee's Electronic Credit Ledger on 23-11-2022, one year period expired on 23-11-2023, restriction imposed lapsed in view of sub-rule (3) of Rule 86A of CGST Rules, impugned order was to be set aside-Bombay HC

Where only after disposal of appeal against order raising demand and imposing penalty, service recipient -IOC issued declaration that they had availed GTA services from assessee for relevant period, considering fact that if this declaration was issued by IOC in time, assessee would be entitled to take advantage of same as said declaration clearly mentioned that GST liability on Reverse Charge Mechanism (RCM) had been discharged by IOC, matter was to be readjudicated-Calcutta HC

Where notice was issued under section 73 CGST Act for which no reply filed and no opportunity of personal hearing demanded by assessee, application for extension of time to file reply not submitted, plea regarding denial of opportunity of hearing and violation of principles of natural justice could not be countenanced, assessee was to be directed to avail statutory remedy available under section 107 of CGST Act-Allahabad HC

1. Allahabad HC in the case of G F T Fashion Vs State of U.P.[WRIT TAX NO. 101 OF 2024][WRIT TAX NO. 101 OF 2024 Dated 07.05.2024]

Failure to consider reply to show cause notice.
Opportunity to present case.

Assessee/Petitioner challenged orders cancelling GST registration and dismissing appeal against cancellation.

Revenue issued cancellation order stating no reply submitted to show cause notice, despite mentioning receipt of reply in same order.

HELD: Writ Petition allowed. Cancellation order indicates non-application of mind and lacks reasoning. Appellate order dismissed appeal only on grounds of limitation.

Impugned cancellation order and appellate order set aside - Assistant Commissioner directed to pass fresh order after considering assessee's/petitioner's reply to show cause notice [Section 29 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017]

2. Madras HC in the case of Tvl. Samikannu Mariappan Vs State Tax Office[W.P. NO. 15509 OF 2024/W.M.P. NOS. 16860 & 16862 OF 2024 Dated 21.06.2024]

Assessee did not respond to notice or appear at personal hearing.

Assessee submitted that he had entrusted GST compliance to a local auditor and that he was unaware of these proceedings until he received a letter.

HELD : Tax proposal was arrived at on best judgment basis because petitioner did not respond to notice or appear at personal hearing.

Since petitioner was not heard before order was issued and petitioner asserts that he was unaware of proceedings, interest of justice warrants reconsideration albeit by putting the petitioner on terms. Impugned order was to be set aside on condition that assessee remits 10 per cent of disputed tax demand [Section 73 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017]