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GST Digest

- Recent case laws

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Where assessee filed appeal beyond period of limitation and same was dismissed vide impugned order, since assessee was not diligent in availing appellate remedy, writ petition of assessee against order in appeal was to be dismissed-Patna HC

Where no law mandates adherence to specific route, traders have freedom to choose their route for transporting goods as long as destination remains unchanged, and mere deviation from route mentioned in transit documents does not justify imposition of tax and penalty-Karnataka HC

Where assessee challenged notice and confiscation order issued under GST Act, provisional release of detained goods and conveyance was allowed on payment of fine and submission of bond, pending final hearing of petition-Gujarat HC



Where assessee's application for transfer of GST file from 'composition scheme' to 'normal scheme' sanctioned, input tax credit certificate not uploaded in time, application for condonation rejected, Coordinate Bench directed authorities to consider application for condonation, authority not considered condonation application observing "he did not come across any provision in Act or Rules which permitted condonation", observation misconceived, Rule 40(1)(b) of CGST Rules specifically authorizes Commissioner to extend time, respondents were to be directed to condone delay-Calicutta HC

Where assessee claimed unawareness of GST notices, impugned order quashed and matter remanded, directing authorities to allow assessee opportunity to reply before passing fresh orders-Madras HC

Since offence under section 132 carries a maximum punishment of five years of imprisonment and said period of custody already undergone, it is was not appropriate to keep assessee languishing in jail any further, thus assessee should accordingly be released on bail-Supreme Court

Penalty imposed on a ground not mentioned in show cause notice, therefore, principles of natural justice violated; penalty set aside-Allahabad HC

The CBIC has issued notification to notify date of establishment of GSTAT and its benches from September 1st, 2024. Also, the locations shown as 'Circuit' shall be operational in such manner as the President may order, depending upon the number of appeals filed in the respective States/jurisdiction-Notification No S.O. 3048(E) dated 31.07.2024

Where GST demand order issued in wrong name despite correct GSTIN, belated statutory appeal allowed subject to 10% tax deposit and disposal within 3 months-Madras HC

Where applicant-assessee had entered into contract for provision of renting of immovable property services and intends to revise price upwards, therefore, as per Section 142, collection of increased rents for past period i.e. 1-9-2005 to 30-6-2017 shall also be treated as "supply" under Goods and Services Tax and entire increased rent amount for period from 1-9-2005 to 31-8-2022, shall be liable to Goods and Services Tax-AAR Tamil Nadu

1. **Madras HC in the case of Gayathri Construction Vs Assistant Commissioner (ST)[W.P. NO. 15851 OF 2024/WMP Nos.17277, 17292 & 17294 of 2024 Dated 26.6.2024]**

Assessee contended that mismatch between GSTR 3B returns and Form 26AS was due to inclusion of pre-GST period (01.04.2017 to 30.06.2017) in Form 26AS.

Revenue issued assessment order under Section 73 based on mismatch without providing adequate opportunity to explain.

HELD: Assessee should be provided opportunity to explain mismatch and submit reply to show cause notice - Impugned assessment order set aside.

Matter remanded for reconsideration after giving opportunity to assessee and on condition of remitting 10% of disputed tax demand - Writ Petition disposed of [Section 73 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017].

2. **High Court of Allahabad in the case of Shree Om Steels Vs Additional Commissioner[WRIT TAX NOS. 1007, 1101 & 1410 OF 2022 Dated 19.07.2024]**

On basis of a survey carried out under section 67 of UPGST Act at business premises of assessee, notice under section 130 read with section 122 of UPGST Act was issued for confiscating goods found excess and seized as well as for levying penalty.

Thereafter, vide impugned order, tax and penalty was levied.

Appeal preferred by assessee was also dismissed vide impugned order Assessee submitted that survey conducted proceeded with notice under section 130, read with section 122 of UPGST Act and only eye measurement was done as goods were not excess as alleged.

HELD: Even if excess stock is found, proceedings under section 130 of GST Act could not be initiated - Further, demand for tax can be quantified and raised only in manner prescribed in section 73 or section 74 of CGST Act - Accordingly, impugned orders were to be set aside [Section 130 read sections 67, 73, 74 and 122 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017]