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GST Digest

- Recent case laws

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The CBIC has issued notification to provide that the effective date for mandatory distribution by Input Service Distributor shall be 01-04-2025 and the effective date for applicability of penalty provisions for tobacco manufacturers shall be 01-10-2024. These provisions were incorporated within the CGST Act vide the Finance Act, 2024-Notification No No. 16/2024–Central Tax Dated 06.08.2024

Where proceedings were initiated against assessee in respect of mismatch between assessee's GSTR 3B returns and auto populated GSTR 2A as also between assessee's GSTR 1 and GATR 3B returns, since order imposing penalty was issued without assigning reasons thereof, impugned order could not be sustained and thus, impugned order was to be set aside and matter was to be remanded back for re-consideration-Madras HC



Where assessee was unaware of assessment order due to hospitalization and notices posted on GST portal, order quashed and directed fresh hearing-Madras HC

Where assessee filed writ petition seeking quashing of order imposing a penalty of Rs. 49,43,614 under Section 129(1)(a), instant writ petition was to be disposed of on ground of availability of alternative remedy of appeal-Jharkhand HC

Supply of supplementary food including mid-day meals to CDPO under ICDS Scheme is not exempt under GST-Karnataka AAR

Where assessee's refund related to accumulated ITC on capital goods was rejected by revenue; instant writ petition was to be disposed of directing assessee to exhaust its alternative remedy by filing appeal before tribunal within four weeks-Bombay HC

Where notices on GST portal went unnoticed due to assessee's unfamiliarity, impugned orders quashed and treated as addendum to show cause notice, allowing assessee to file reply before fresh orders are passed-Madras HC

Where assessee on bail in tax evasion complaint had been diligent during inquiry after complaint was filed without any incident of default and complied with direction of court below, and it was most unlikely that assessee would abscond course of justice, assessee was to be allowed to travel abroad for business purposes- Orissa HC

Where discrepancies exist between GST returns, matter remanded for fresh order, granting assessee opportunity to file objections and produce documents, subject to depositing 10% of disputed tax-Madras HC

Municipal Council directed to comply with order of HC to release payment of GST reimbursement to contractor-Madhya Pradesh HC

Ride monitoring fees charged by Rapido would be covered under SAC 9985 and taxable at 18%-Karnataka HC

1. Orissa HC in the case of Alfa Cityinfra (P.) Ltd. Vs Chief Commissioner of Central Tax, Goods and Services Tax[W.P. (C) NO. 16864 OF 2024 Dated 23.07.2024]

Petitioner-assessee, challenged demand notice issued by revenue under Section 73. Said notice included directions for filing a reply but did not provide a date for a personal hearing which amounted to violation of principle of natural justice.

Additionally, assessee could not submit a reply to show cause notice due to the pandemic.

HELD: Any defect in show cause notice would cause violation of principles of natural justice. Thus, impugned demand was to be set aside and time was to be extended for assessee to file reply and thereafter in event personal hearing was sought, it would be given [Section 73 of Central Goods and Services Tax Act, 2017/Odisha Goods and Services Tax Act, 2017].

2. Allahabad HC in the case of RB Jethanand Kishan Chand and Sons Vs State of U.P.[WRIT TAX NO. 1094 OF 2024 Dated 25.07.2024]

Assessee challenged order issued by revenue for tax period 2018-19, whereby demand of Rs. 28,889/- was raised against assessee. Sole ground of said challenge was absence of an opportunity for a personal hearing before adverse assessment order was passed and also notice which was issued by assessing authority did not provide any date, time, or venue for a personal hearing, indicating "NA" against relevant columns.

HELD: In judicial precedents, it has been laid down by way of a principle of law that a person/assessee is not required to request for "opportunity of personal hearing"; it remained mandatory upon Assessing Authority to afford such opportunity before passing an adverse order. Not only such opportunity would ensure observance of rules of natural of justice but it would also allow authority to pass appropriate and reasoned order as may serve interest of justice and allow a better appreciation to arise at next/appeal stage, if required.

Therefore following said judgment, impugned order was to be set aside and matter was to be remitted back to revenue [Section 75 of Central Good and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].