



**A.C. Bhuteria & Co.**  
Chartered Accountants

16, Strand Road, Diamond Heritage,  
Room No. H-703,  
Kolkata – 700001

Ph: 033-46002382/ 40032841  
Email id: [info@acbhuteria.com](mailto:info@acbhuteria.com)

## GST Digest

- Recent case laws

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Where assessee had availed ITC from suppliers whose registration was cancelled retrospectively, since impugned order confirming demand did not specify if such suppliers of assessee had not paid taxes or had not filed returns at material time and impugned order was passed mechanically, same was to be set aside and matter was to be remanded-Delhi HC

Where assessee/petitioner contended it had submitted all documents to justify input tax credit availed on purchases from supplier, but revenue denied credit on ground that supplier had not filed returns and paid taxes, High Court dismissed writ petition challenging order, holding assessee/petitioner can avail statutory remedy as order is appealable-Madras HC

Where assessee filed belated statutory appeal after unsuccessful writ proceedings against same assessment order, filing of appeal held to be abuse of process of court-Andhra Pradesh HC



AAR held that offline bridge tournaments don't attract GST under 'specified actionable claims-AAR West Bengal

Where accused-director of a company arrested, allegation were said company had filed input tax credit for firms which were non-operational, since transactions of 2017/2018 and department itself sought judicial custody of accused Trial Court granted bail to accused, investigation required for offence of nature mostly documentary in nature which investigating agency would be able to procure, bail was not to be cancelled-Delhi HC

GSTN has issued an update to inform that a new communication process called the Invoice Management System (IMS) is being brought up at portal to enable taxpayers to efficiently address invoice corrections/amendments with their suppliers through the portal. This facility shall be available to the taxpayer from 1st October onwards on the GST portal-GSTN Update Dated 03.09.2024

The GSTN has issued an advisory to inform that till the time new functionality is made available on portal for reporting of invoice wise details of inter-state supplies made to unregistered dealers above 1 Lakh; the taxpayers may continue reporting the invoice wise details which are more than 2.5 Lakhs in the Table 5 of Form GSTR-1 and Table 6 of GSTR-5-GSTN Update Dated 03.09.2024

Where GST Act lacks specific route declaration requirement, mere interception of goods on different route does not imply tax evasion intent, precluding penalty without cogent evidence-Allahabad HC

HC quashes order rejecting ITC as no reasons were provided and no date for personal hearing was fixed-Allahabad HC

Department is bound to give a personal hearing to assessee when an adverse decision is contemplated-Karnataka HC

Input Tax Credit allowed on inward supply of motor vehicles which are used for demonstration purpose-AAR Kerala

Unsigned show cause notice and assessment order under GST Act, lacking digital or physical signature as required by Rule 26 of CGST Rules, are legally invalid and liable to be quashed-Telangana HC

**1. Delhi HC in the case OF Nishant Tandon Vs Commissioner, CGST[W.P. (C) NO. 11231 OF 2024/CM APPL. NOS. 46485-86 OF 2024 Dated 13.08.2024]**

Assessee's Firm of which petitioner was a partner was dissolved on 1-7-2021. Thereafter, constituent partners sought cancellation of firm's registration by writing a letter to respondent authority.

Show Cause Notice dated 14-6-2021 was issued calling upon petitioner to show cause as to why registration of firm be not cancelled on account of change of constitution of business and dissolution of partnership deed as submitted by one of its partners. Thereafter, registration was cancelled by an order dated 15-3-2022 with effect from 16-8-2017 as no reply was furnished to SCN. None of partners took any steps to assail order dated 15-3-2022 cancelling firm's registration with retrospective effect - Petitioner stated that subsequently he become aware that an order had been passed on 25-4-2024 under section 73 of CGST Act raising a demand.

It was contended on behalf petitioner that firm's registration was not cancelled by any action of a proper officer, but it was pursuant to application made by its partner(s) and firm had responded to SCN.

He stated that since GST portal of firm was locked, he had been unable to access any of notices or other documents - HELD: Petitioner had not filed a copy of application seeking cancellation of firm's registration and merely relied upon order dated 15-3-2022 cancelling firm's registration.

This was an apparent technical glitch as reference to a reply appeared in all such orders - Petitioner submitted that instant petition was confined to seeking copies of returns and documents which were available with GST authorities in order to enable petitioner to pursue its appellate remedy - Accordingly, alternate relief claimed by petitioner was to be allowed [Section 29 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017].

**2. Allahabad HC in the case of Vijay Trading Company Vs Additional Commissioner Grade-2, State Tax, Uttar Pradesh[WRIT TAX NO. 1278 OF 2024 Dated 20.08.2024]**

An inspection/search under section 67 of CGST Act was conducted at business premises of assessee by SIB in which excess stock was found - Thereafter, proceedings under section 130 of CGST Act had been initiated against assessee - Assessee submitted that stock was assessed on basis of eye measurement, actual weighment of stock was not done.

HELD: If excess stock is found, then proceedings under sections 73/74 of CGST Act should be pressed in service and not proceedings under section 130 of CGST Act, read with rule 120 of GST Rules.

Accordingly, impugned orders were to be set aside [Section 130 read with section 73 and section 74 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017; Rule 120 of Central Goods and Services Tax Rules, 2017/Uttar Pradesh Goods and Services Tax Rules, 2017].