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## GST Digest

- Recent case laws

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HC directs GST authority to process cancellation application as non-compliance of statutory provisions can't be a reason to reject it-Delhi HC

HC ruled SCN to non-existent firm post-dissolution invalid; Dept. may act against legal heirs-Allahabad HC

Annuity received for construction and maintenance of national highway is taxable at time of issuance of invoice or receipt of payments of annuity, whichever is earlier-Andhra Pradesh HC

The CBIC has issued notification to provide that the Principal Bench of the Appellate Tribunal shall examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by that registered person-Notification No 18/2024-Central Tax Dated 30.09.2024



Where demand was proposed under section 79 of CGST Act on basis of mismatch of GSTR-01 with GSTR-09, assessee had contended that mismatch was on account of technical glitch in GST portal functionality, but not accepted by respondent authority, assessee's similar contention for subsequent period was accepted and demand was dropped, impugned order was to be set aside-Delhi HC

Penalty order passed on detention of goods and vehicle after 7 days from service of notice was not sustainable-Patna HC

Cancellation of GST registration on pretext of violation of rule 86B was a disproportionate punishment imposed on petitioner and was liable to be interfered in exercise of power conferred on this Court under article 226 of Constitution of India-Himachal Pradesh HC

Order of cancellation of registration passed on basis of "prima facie" investigation without completion of investigation was arbitrary, unreasonable and in violation of article 14 of Constitution of India-Himachal Pradesh HC

PSU which doesn't have 90% or more participation by way of equity or control of Govt. is not "Governmental Entity"-Uttarakhand AAR

Where assessee failed to produce vehicle movement details required under Section 16(2)(b) of CGST Act for availing Input Tax Credit, writ petition challenging assessment order dismissed, granting liberty to file appeal before Appellate Authority within 4 weeks-Madras HC

The GSTN has issued an update to inform the launch of the new GSTN e-Services app, which replaces the old e-Invoice QR Code Verifier App. The app would soon be available on the Google Play Store and App Store and no login is required to use the app-GSTN News dated 01.10.2024

Dept. can't reject appeal on ground that certified copy of order wasn't submitted-Gujarat HC

Construction of immovable property may be considered as "plant" for claiming ITC if it is critical to business operation: SC

**1. Kerala HC in the case of Jafar Karakkunnel Arshal Vs Deputy Commissioner, Central Tax & Central Excise[WP(C) NO. 24033 OF 2024 Dated 06.09.2024]**

Refund claim was rejected on ground that value of invoice issued during January, 2024, advance received during February, 2024 and GSTR-1 were not matching and there was no correlation between GSTR-1 and GSTR-3B for month of February, 2024.

Petitioner contended that they had already paid tax for advance received in month of January, 2024 and same was shown again by mistake as advance payment in GSTR-1 for February, 2024 and further tax was paid.

Mistake was rectified by filing amended return.

Tax officer had taken view that petitioner could not receive any advance payment after supply of goods in month of January, 2024.

However, this reasoning did not take into consideration fact that petitioner had contended that description of amount received in February, 2024, as an advance, was actually a mistake and same was rectified by filing amended return - This aspect did not appear to have been considered by officer while passing impugned order.

Impugned order was to be quashed and refund application was to be reconsidered [Section 54 of Central Goods and Services Tax Act, 2017/Kerala State Goods and Services Tax Act, 2017, Rule 90 of Central Goods and Services Tax Rules, 2017/Kerala State Goods and Services Tax Rules, 2017].

**2. Allahabad HC in the case of Kalpana And Kamla Cargo And Travels Vs State of U.P.[WRIT TAX No. - 1041 of 2024 Dated 14.08.2024]**

Date of hearing not communicated. Petitioner- assessee was aggrieved by impugned order dated 01.03.2024 passed under Section 74 by respondent- assessee for assessment year 2019- 20.Writ Petition was passed against aforesaid order.

Held: In instant case, order was passed ex parte and was not passed on date fixed for hearing - Further, no notice was given to petitioner for subsequent date.

In Shubham Steel Traders Vs. State of U.P. and Another, order was set aside on ground that adjudication order was not passed on fixed date and next date fixed in proceedings was not communicated to petitioner - In light of same, as facts of present case, were quite similar to aforesaid judgment, impugned order dated 01.03.2024 was quashed and set aside with a direction upon authority concerned to grant an opportunity of personal hearing to petitioner.

Thereafter, pass a reasoned order in accordance with law [Section 74 of Central Goods and Services Tax Act,2017/Uttar Pradesh Goods and Services Tax Act,2017].