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GST Digest

- Recent case laws

September 30, 2024



Delay in filing application for revocation of cancelled registration could be condoned subject to payment of tax, interest, penalty and late fee-Orissa HC

Where complaint was made and FIR was registered against one Shreenath Soya's proprietor in which petitioner had been implicated later on, penal provisions of IPC invoked without invoking penal provisions of section 132 of CGST Act, no sanction before launching prosecution taken from Commissioner as required under section 132(6) of CGST Act, FIR and consequential proceedings emanating therefrom were to be quashed, as against petitioner-Madhya Pradesh HC

Where assessee's GST registration was cancelled due to default in payment of tax, cancellation order was set aside and restoration of registration directed, allowing assessee to file returns and remit outstanding dues within specified timeframe-Madras HC



HC quashed cancellation of GST registration with retrospective effect as it was done in violation of principles of natural justice-Delhi HC

Where assessee filed reply to show cause notice in respect of each of issues mentioned in SCN, however proper officer passed impugned order recording identical observation on each issue by stating that assessee had not filed proper documents, impugned order was vitiated by complete non-application of mind and non-consideration of assessee's reply, thus, same was to be set aside and matter was to be remanded-Madras HC

HC grants interim protection to assessee as notification extending time limit for passing order lacks GST Council's approval-Gauhati HC

Where applicant-assessee has agreed with classification done by Customs without any protest and discharged duties, further, there is no change in character of goods supplied by applicant-assessee to one imported, therefore, goods when supplied by applicant-assessee, post importation would be classified under same chapter, heading, sub-heading and tariff item under which it was classified by Customs and on which IGST was discharged during course of import of said goods-Gujarat AAR

CGST authorities cannot initiate proceedings when same subject matter is already under investigation by SGST authorities; Blocked credit ledger and summons issued by CGST authorities were to be set aside as proceedings had already been initiated by SGST authorities on same subject matter-Himachal Pradesh HC

Where appeal was filed by petitioner against order-in-original and petitioner succeeded in appeal, refund application filed by petitioner which was consequential to order-in-appeal was to be directed to be processed-Delhi HC

Delay in filing appeal against order of cancellation of GST registration was to be condoned when illness of grandfather of proprietor of petitioner-firm was shown as reason and opportunity should be given to petitioner-firm to contest matter on merits-Rajasthan HC

Where goods in transit were intercepted and detained on ground that there was no e-way bill produced and there was under valuation of goods in question, assessee was permitted to make payment of tax and penalty under section 129(1)(a) as determined by authorities at twice tax leviable on market value of goods-Karnataka HC

1. Calcutta HC in the case of Phuljhora Agro Plantation (P.) Ltd. Vs Union of India [W.P.A. NO. 1740 OF 2024 dated 16.08.2024]

Assessee failed to respond to show cause notice dated 8-8-2023 issued by proper officer under section 73(1).

Although said notice indicated that an opportunity for a hearing might be provided, however it failed to specify any date, time, or venue for hearing. An assessment order under section 73(9) was issued confirming demand.

Assessee contended that he was not afforded a proper opportunity for a hearing by authority

HELD : Since assessment was based on a show cause notice denying assessee right to a personal hearing, consequently, proceedings based on defective show cause notice must go. Therefore, show cause notice as well as impugned order confirming demand was to be set aside [Section 73 of Central Goods and Services Tax Act, 2017/West Bengal Goods and Services Tax Act, 2017].

2. Madras HC in the case of Noor Jewel Impex Vs Assistant Commissioner (ST), Vepery Assessment Circle[W.P. NO. 22415 OF 2024/W.M.P. NOS. 24410 & 24411 OF 2024 Dated 13.08.2024]

A show cause notice was issued to assessee alleging certain discrepancies in respect of claim of ITC in GSTR 3B and GSTR 2A returns.

Case of assessee was that though assessee duly filed reply to said notice enclosing various self-declarations issued by suppliers, impugned order was passed in haste manner, without providing an opportunity to assessee to submit balance self-declarations.

HELD : Assessee was to be granted an opportunity to substantiate their claim - Impugned order was to be set aside and matter was to be remanded [Section 16 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017]