



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

GST Digest

- Recent case laws

November 18, 2024



Where no pre-decisional hearing was provided/granted by respondent-authorities before blocking Electronic Credit Ledger and there was no independent or cogent reason to believe except reports of Enforcement authority, impugned blocking order was impermissible in law as same was based on borrowed satisfaction-Karnataka HC

Appeal can't be dismissed as not maintainable on account of full fee not being deposited-Punjab and Haryana HC

Where assessee challenged order of Appellate Authority under section 107 of CGST Act whereby order of cancellation of registration upheld and appeal dismissed on ground of limitation, respondent authorities not be able to exercise revisional power under section 108, impugned order of Appellate Authority and order of cancellation of registration were to be set aside-Gujarat HC



Where order was passed against a deceased person and petitioner's bank account was frozen, impugned order passed against a dead person was to be set aside, an opportunity was to be provided to petitioner to establish his case on merits being only legal heir, respondent authorities were to be directed to instruct bank to release attachment and de-freeze bank account of petitioner-Madras HC

Where foreign affiliate provided certain services to related domestic entity and recipient domestic entity was eligible full input tax credit, if no invoice was raised by domestic entity with respect to service provided by foreign affiliate though payments were made, value of such services was to be deemed to be declared as Nil and said Nil value may be deemed as open market value-Delhi HC

Where orders under Section 73 of CGST/DGST Act were unreasoned and passed without considering responses to show cause notices, such orders were set aside and remanded for fresh adjudication within six months, requiring reasoned speaking orders after review of show cause notices-Delhi HC

GST registration suspended for violation of Rule 86B cannot continue after deposit of required amount, as suspension has wide adverse ramifications for business and requires due consideration-Delhi HC

GST registration cancellation based on cryptic show cause notice lacking specific allegations set aside for violating principles of natural justice; registration ordered to be restored-Delhi HC

The GSTN has issued an update to inform that the recipient can change the action on the IMS in respect of an invoice/record and can recompute his GSTR-2B at any time till the filing of GSTR-3B for the corresponding tax period. Even if taxpayer fails to correct then he can edit such wrongly populated ITC/liability in their GSTR-3B, to correctly avail ITC or pay correct tax liability as per the documents/records available-GSTN Advisory dated 12.11.2024

HC directed GST Dept. to process refund of tax wrongly paid on inbound courier services as per CBIC's circular-Delhi HC

ITC availed on fictitious transactions with purchasing goods from non-existent supplier and assessee failing to prove actual movement of goods, demand and penalty sustainable-Supreme Court of India

No NOC from landlord required to add additional place of business; cancellation of GST registration to be quashed-Punjab and Haryana HC

1. Bombay HC in the case of Vijaynath Roof and Wall Cladding Systems (P.) Ltd. Vs State of Goa [WRIT PETITION NO.2328 of 2024 (F) Dated 27.09.2024]

Assessee company's GST registration cancelled by Assistant Tax Officer. Order merely mentioned show cause notice and reply without providing reasons for cancellation.

HELD: Orders cancelling registration cannot be sustained as authority failed to provide reasons for decision.

Even in administrative functions, officers are legally obligated to give reasons when decision adversely affects party. Assistant Tax Officer exercising quasi-judicial functions must pass reasoned and speaking orders.

Impugned orders dated 07/10/2022 and 25/11/2022 cancelling GST registration quashed. Writ Petition allowed [Section 29 of Central Goods and Services Tax Act, 2017/Goa Goods and Services Tax Act, 2017].

2. Madras HC in the case of Jegatheeswaran Vs Assistant Commissioner (State Taxes) [W.P(MD)No.22226 of 2024, W.M.P(MD)Nos. 18783 & 18785 of 2024 Dated 18.09.2024]

Assessee was running a mobile shop and filed GSTR-3B returns.

Revenue found that assessee had availed Input Tax Credit in excess of credit reflected in GSTR-2A statement. Revenue issued Form ASMT-10, followed by a notice of intimation in Form DRC-01A and Form DRC-01.

Assessee was issued with a notice for personal hearing and he appeared before revenue and explained his case. However, revenue, without affording proper hearing to assessee, arbitrarily reversed ITC and imposed penalty on assessee –

HELD that Assessee was ready and willing to pay 25 per cent of disputed tax and same could be adjusted with amount already paid. Bank attachment was to be lifted upon deposit of 25 per cent of disputed tax after adjusting amount of Rs. 1 lakh which was already paid.

Impugned order was to be set aside and same was to be treated as show cause notice and assessee was to submit its objections along with supporting documents. If above deposit was not paid or objections not filed within stipulated period, impugned order was to stand revived [Section 73, read with section 16, of Central Goods and Services Tax Act, 2017/ Tamil Nadu Goods and Services Tax Act, 2017]