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GST Digest

- Recent case laws

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Order suspending GST registration of assessee without considering reply filed by assessee in response to show cause notice, impugned order was to be set aside-Madras HC

Where there was delay in filing application for revocation of cancellation of registration, delay was to be condoned subject to assessee depositing all taxes, interest, late fee, penalty etc., due and complying with other formalities-Orissa HC

Manufacturing of 'cream' which will contain vegetable fat to extent of 23 per cent is nothing but a preparation of vegetable oil, classifiable under heading no. 15179090 and attract GST at rate 5 percent-AAAR Uttar Pradesh



Where petitioner-assessee could not file Form GST ITC-02 on respondents-department's common portal because common portal was not fully functional, further, various judgments held that technicalities created by respondent-department should not be put forth to defeat statutory rights and entitlement of assessees, therefore, impugned show cause notice dated 17.08.2023 was quashed and respondents-department were directed to consider manually filed forms by petitioner-assessee as expeditiously as possible-Bombay HC

Since as per Section 107(1) limitation shall start running from communication of order, appellate order dismissing appeal as time barred was to be set aside and matter was to be remitted back to appellate authority as limitation was counted from date of order and there was no finding recorded with regard to date of communication of order to assessee-Rajasthan HC

Matter was remanded for granting personal hearing as error in filing GSTR-3B was accepted by the department-Madras HC

Royalty paid by mineral concession holder to government cannot be considered as tax and, hence is subject to GST-Himachal Pradesh HC

CBIC issued instruction for systemic improvement with respect to mapping / de-mapping of the officers on GSTN portal-INSTRUCTION NO. 4/2024-GST [F. NO.: CBIC-20016/26/2024-GST], DATED 04-10-2024

Order rejecting refund to be quashed as refunds must be recalculated using the amended formula-Gujarat HC

Where pursuant to filing belated return by assessee and passing of impugned order, an amendment was made into section 16 extending time for filing return, assessee was to be directed to file rectification application as time for same was still left-Orissa HC

Anticipatory bail granted as applicants were not on the run and had co-operated with authorities-Punjab and Haryana HC

Offence of cheating by personation could not be laid against the petitioner as there was no complaint from the victim-Karnataka HC

1. Madras HC in the case of Sri Kaleeswari Stores Vs Assistant Commissioner[W.P.(MD). No.24110 of 2024/W.M.P.(MD).Nos.20392 and 20394 of 2024 Dated 14.10.2024]

An audit was conducted on petitioner's place of business and certain defects were found viz. discrepancy between GSTR 2A and GSTR 3B; availment of ITC on discounts etc.

A show cause notice was issued and thereafter impugned order was passed. Assessee challenged order on grounds that in DRC-01 notice under head 'GSTR 2A and GSTR 3B discrepancy' it only provided that there was excess ITC to extent of Rs. 97 thousand, however while passing impugned order, entire ITC claimed to extent of Rs. 1.13 crore had been disallowed. Assessee submitted that impugned order traversed beyond SCN and, thus, resulted in violation of natural justice.

With regard to issue of ITC claim on discounts assessee sought final opportunity to submit relevant documents.

HELD: It was found that insofar as primary dispute viz. discrepancy between GSTR 2A and GSTR 3B, was concerned there was merit in submission of assessee that impugned order traversed beyond SCN in violation of natural justice as party was denied opportunity to put forth his case - 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].

2. Madras HC in the case of Tvl. V M & Co Vs State Tax Officer[W.P.(MD) No.25760 of 2024 Dated 25.10.2024]

In response to Form GST-DRC 01A alleging huge difference in sales turnover to a tune of Rs. 42,86,77,702, petitioner works contractor submitted that some of works executed during VAT regime which were subjected to tax under GST Act.

Petitioner explained that proposal to treat a sum of Rs. 42.86 crores as suppression was contrary to facts inasmuch as out of total receipts for relevant year of Rs. 48.10 crores, Rs. 44.96 crores was disclosed under VAT regime and sums received in GST regime were only of Rs. 3.35 crores and in respect of above consideration reported through GSTR-3B, taxes was also duly discharged under GST.

Assessing Officer held that reply was not convincing and was not acceptable since they were not supported with valid documentary evidences; hence, they were to be overruled - Impugned order did not reflect any reasoning. Assessing Officer had not dealt with objections of petitioner at all.

Impugned order suffers from vice of being a non-speaking order and, thus, violates principles of natural justice - Matter was to be readjudicated - [Section 16 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017]