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## GST Digest

- Recent case laws

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Section 16(4) of CGST Act, 2017 is arbitrary and capricious as it disallows ITC when returns are not filed within time limit prescribed under said sub-section; late fees and interest under other provisions being sufficient deterrents; saddling with double payment of tax by way of section 16(4) is arbitrary and capricious-Madhya Pradesh HC

Once a company is dissolved due to amalgamation, it ceases to exist in eyes of the law and any proceedings initiated or continued against such a company are a nullity and void ab initio, thus SCN and a final order were issued against petitioner under Section 73, despite it being defunct due to merger were to be set aside-Delhi HC



Where goods purchased through public auction after import with IGST already paid, inability to include tax in GSTR-3B due to lack of auction documents cannot result in double taxation through fresh levy-Gujarat HC

Where on receipt of IGST paid inward supplies from outside State, in Form GSTR-3B, appellant inadvertently showed IGST component as nil and added bifurcated CGST and SGST components of IGST to existing figures showing eligible CGST and SGST credit, resulting in mismatch between Form GSTR-2A and Form GSTR-3B, in view of fact that there was no wrong availment of credit and only a technical mistake was committed by appellant, order demanding tax was to be set aside-Kerala HC

Where reminder and orders impugned came to be uploaded on 'Additional Notices and Orders' Tab of GST Portal, impugned demand order issued under section 73 of CGST Act was to be set aside, assessing officer was to be directed to issue fresh notice and based on said notice, to take further proceedings-Allahabad HC

Where issuance of notice under section 73 and dropping proceedings would not prevent respondent-department from independently initiating subsequent proceedings under Section 74, further, tax anomaly in GSTR 2A reflected that petitioner-assessee had not deposited tax in Government treasury and had availed same liability wrongfully, therefore, writ petition was dismissed without interrupting impugned proceedings-Punjab and Haryana HC

Where Show Cause Notice (SCN) was issued it could not be, challenged in writ petition on ground that data relied upon was extracted from electronic devices without complying with procedure under section 145 as petitioner had right to raise issue of admissibility of evidence in adjudication proceedings-Delhi HC

JSW Steel informed that it has received a show cause notice with penalty amounting to Rs 64.47 crore from GST and Central Excise Authority for non-payment of GST under Reverse Charge Mechanism (RCM).

AO was directed to release all pending refunds as the appellate authority had already granted relief to the assessee-Delhi HC

1. **Calcutta HC in the case of Fusion Realtyinfra (P.) Ltd Vs Deputy Commissioner of State Tax[WPA No.25452 of 2024 dated 25.11.2024]**

Petitioner-assessee's registration was cancelled on ground of non-filing of returns.

Assessee submitted that after cancellation of its registration, it had paid all revenue due and further agreed to pay any revenue due which was required to be paid for restoring its registration.

HELD : Impugned order was to be set aside and respondent authority was to be directed to restore assessee's registration and open portal for a period of 45 days to enable assessee to make payment of revenue due as well as any other due including penalty to be indicated by respondent authority concerned within a period of 15 working days. If assessee failed to make payment of revenue due after indication of amount by GST authority, respondent authority concerned would be free to block portal again and cancel registration [Section 29, read with section 30, of Central Goods and Services Tax Act, 2017/West Bengal Goods and Services Tax Act, 2017].

2. **Delhi HC in the case Ridhi Siddhi Enterprises Vs Commissioner DSGST[W.P.(C) 16194 of 2024 CM APPL. 68078 of 2024 (Interim Stay) Dated 22.11.2024]**

Application for amendment to GST registration was rejected before petitioner could respond to notice requiring additional documents.

HELD : Rejection of application prior to petitioner's response was a violation of natural justice principles - Order rejecting application was to be quashed and set aside.

Application for amendment and show cause notice were to be considered and examined parallelly and disposed of in accordance with law [Section 28 of Central Goods and Services Tax Act, 2017/Delhi Goods and Services Tax Act, 2017 - Rule 21A of Central Goods and Services Tax Rules, 2017/Delhi Goods and Services Tax Rules, 2017].