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GST Digest

- Recent case laws

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Where assessee's registration was cancelled due to non-filing of GSTR 3B returns for 6 months, appeal filed against order of cancellation dismissed on ground of limitation, reply submitted by assessee not been considered, impugned orders passed without application of mind were to be set aside- Madhya Pradesh HC

Where assessee's registration was cancelled, subject to payment of all taxes, interest, late fee, penalty etc., due and complying with other formalities, assessee's application for revocation would be considered in accordance with law-Orissa HC

Order to be quashed as no personal hearing was granted and the SCN was not properly served- Karnataka HC



Where assessee, an exporter, faced a delay in exporting goods beyond 90 days due to transportation issues and sought condonation of delay under Circular No. 37/11/2018-GST, however revenue rejected application without providing reasons, therefore order rejecting application to condone of delay, which was bereft of any reason was to be quashed and set aside and matter was to be remanded back to revenue-Gujarat HC

GST registration cancellation orders set aside solely for non-recording of reasons, matter restored for fresh consideration after hearing opportunity-Kerala HC

Principle of double jeopardy not applicable to deny bail in IPC offences where accused already granted bail in GST case, as IPC offences involving fake GST firms and fraudulent ITC claims are distinct from GST offences and warrant stringent approach being economic offences-Allahabad HC

Order was set aside as it was passed on issues not discussed in notice and reply of assessee was not considered-Kerala HC

Notices and orders uploaded on 'Additional Notices and Orders' Tab instead of 'Due Notices and Orders' Tab of GST Portal, making assessee unaware of proceedings, warrants quashing of orders and issuance of fresh notices-Allahabad HC

Telecommunication towers does not qualify test of permanency, they are not 'attached to earth', they can be dismantled and moved and are never erected with an intent of conferring permanency and their placement on concrete bases was only to enable those towers to overcome vagaries of nature, they can be considered as moveable property eligible for ITC-Delhi HC

The GSTN has issued an update to inform that starting 1st January 2025, Multi-Factor Authentication (MFA) on E-Invoice and E-Way Bill portals will become mandatory for taxpayers with AATO exceeding Rs 20 Crores, from 1st February 2025 for those with AATO exceeding Rs 5 Crores, and from 1st April 2025 for all other taxpayers and users-GSTN Advisory dated-17.12.2024

1. Allahabad HC in the case of Monotech Systems Ltd. Vs State of U.P.[WRIT TAX No. - 1689 of 2024 Dated 11.11.2024]

Vehicle carrying goods was intercepted and revenue authorities found that some parts of E-way Bill was not filled.

After physical inspection of goods no discrepancy was found as goods tallied with description in E-way Bill.

Assessee contended that there was no intent to evade tax and goods in vehicle were fully reconciled with E-way bill.

HELD : Non-filling of part of E-way Bill would not ipso facto trigger proceedings under section 129 in facts of instant case. When substantial compliance of provisions was disclosed and when physical inspection of goods tallied with goods declared in E-way Bill and for non filling of some part of E-way Bill no intent of tax evasion was made out, proceedings under section 129 became vitiated. Impugned order was to be quashed [Section 129 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017]

2. Calcutta HC in the case of Snehasish Paul Vs Assistant Commissioner of State Tax[WPA No.27177 of 2024 Dated 04.12.2024]

Assessee impugned order passed under section 74 of CGST Act which was uploaded in "Additional Notice and Orders" on portal, demanding a payment of interest and penalties. Impugned order followed a Show Cause Notice, issued without providing an opportunity for a personal hearing. Said notice was uploaded in "Additional Notice and Orders" tab of portal, which went unnoticed due to assessee's reliance on its accountant and their lack of technical expertise. Assessee claimed that this procedural lapse violated principles of natural justice. Assessee had already made a partial tax payment, however, Respondents proceeded with adjudication and imposed additional liabilities without considering said payment or granting assessee an opportunity for a personal hearing. Assessee filed an appeal under section 107 of GST Act, along with a petition for condonation of delay of 72 days due to above circumstances which was rejected by appellate authority solely on grounds of limitation. Assessee submitted that section 107 of CGST Act, does not explicitly exclude applicability of Limitation Act, 1963, and that delay in filing appeal should have been condoned under section 5 and section 29(2) of Limitation Act.

HELD: In light of procedural irregularities and arbitrary nature of actions, writ petition was to be allowed and appellate orders was to be set aside - Appellate Authority was to be directed to consider and decide application for condonation of delay in filing appeal on merits [Section 107 read with section 75(4) of Central Goods and Services Tax Act, 2017/West Bengal Goods and Services Tax Act, 2017]