



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

January 06, 2025



When there was self-assessment made by filing returns in Form GSTR-1, but Form GSTR-3B was not filed and tax was not paid, request for payment of tax in instalments was to be rejected when petitioner had not paid any amount towards tax liability even two years after passing of order during pendency of writ petition-Madras HC

Where refund order of amount from Electronic cash ledger was stayed by Commissioner vide impugned order under section 108 of CGST Act for alleged incorrect utilization of ITC, there was no finding or conclusion by Commissioner which could have tended to indicate that opinion expressed in refund order was rendered unsustainable, illegal or invalid, order impugned was to be set aside-Delhi HC

Where in SCN proposing to cancel registration of assessee provided extremely short window to furnish reply and SCN did not carry any intent of cancellation from retrospective date, impugned order cancelling registration retrospectively could not be sustained-Delhi HC



The GSTN has issued an advisory to inform that Form GST SPL 02 is made available in the GST portal and Form GST SPL 01 will be available soon in the GST portal-GSTN News Dated 29th December 2024

AO is directed to issue a fresh notice as SCN and order were uploaded under wrong tab on GST portal: Allahabad HC

Delay in filing revocation application to be condoned as assessee was ready to pay all GST dues-Orissa HC

Where registration of assessee was cancelled, delay in invoking provisions of rule 23 was to be condoned subject to assessee paying tax, interest and penalty with liberty to assessee to file application for revocation of cancellation of registration-Orissa HC

Where an irregularity was committed by petitioner-assessee by not having invoice and e-way bill amended to correspond with goods that were loaded on vehicle and petitioner-assessee failed to produce all records to substantiate case before respondent-department, therefore, impugned order was to be upheld and writ petition was to be dismissed-Madras HC

When an application for rectification was made at instance of assessee, if such application is sought to be rejected, it is imperative that assessee should be put on notice and reasons should be assigned for such rejection-Madras HC

The CBIC vide Circular No. 240/34/2024-GST dated December 31, 2024, has issued clarification in respect of input tax credit availed by electronic commerce operators where services specified under Section 9(5) of Central Goods and Services Tax Act, 2017 are supplied through their platform.

Where assessee's ECL had been blocked without availability of any credit, available credit already utilised by assessee, negative blocking of credit within provisions of Rule 86A of CGST Rules was permissible-Madras HC

Matter remanded as original order was passed without providing opportunity for a hearing to assessee-Allahabad HC

1. **Delhi HC in the case of Bani Enterprises Vs Commissioner of CGST, Delhi North[W.P.(C) 13423 of 2024 Dated 18.11.2024]**

Petitioner was originally under Delhi Value Added Tax Act, 2014. It was migrated under CGST, 2017 . Petitioner shifted its principal place of business and registration certificate was amended. Respondents proceeded to issue a show cause notice alleging that registration was obtained by means of 'fraud, wilful misstatement or suppression of facts'. Registration cancelled retrospectively. Application seeking revocation was rejected.

HELD : Inspection report of Anti-Evasion Branch on basis of which application for revocation of registration was rejected, was neither provided to writ petitioner nor was it ever confronted with same. Further, on appeal appellate authority had failed to advert to developments which has occurred in interregnum and which included fact that registration certificate was itself coming to be amended. Although it was alleged that registration was liable to be cancelled on ground of fraud, wilful misstatement or suppression of facts, none of authorities, including appellate authority, had rested their opinion on any material which might have even remotely indicated that registration certificate when originally obtained was outcome of practice of fraud, wilful misstatement or suppression of facts. Insofar as retrospective cancellation was concerned, same would stand duly answered in Riddhi Siddhi Enterprises v. Commissioner of Goods and Services Tax (CGST), South Delhi. Impugned orders could not sustain. Impugned orders were to be quashed.

2. **Calcutta HC in the case of Soumyendu Bikash Jana Vs Union of India[WPA No.21923 of 2024 Dated 04.12.2024]**

Revenue issued summary of show cause notice for said financial year. Said SCN was issued a note "NA" in personal hearing column and no personal hearing was warranted to assessee and adjudicating authority passed adjudicating order.

HELD: As per section 73 read with section 75(4), proper officer is bound to afford an opportunity of hearing, where either a request in writing is received by him from person chargeable with tax or penalty, or where any adverse decision is contemplated against such person. To afford opportunity of hearing is a statutory mandate which cannot be violated by proper officer and in event of violation order passed by proper officer cannot be sustained.

Thus, in instant case impugned order could not be sustained and same was to be set aside and matter was to be remanded back [Section 73 read with section 75 of Central Goods And Services Tax Act, 2017/West Bengal Goods And Services Tax Act, 2017].