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GST Digest

- Recent case laws

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Order to be set aside as notices were uploaded in 'Additional Notices' tab on portal instead of 'Due Notices and Orders' tab-Allahabad HC

Where in show cause notice issued to assessee date of filing reply was mentioned, however date for personal hearing was not provided, such demand was to be set aside for being in violation of natural justice and matter was to be remanded-Orissa HC

Where registration of assessee was cancelled and there was delay invoking rule 23 for revocation of same, subject to assessee depositing all taxes, interest and penalty, assessee's application for revocation of cancellation was to be considered in accordance with law-Orissa HC

Notification No. 56/2023-CT, dated 28-12-2023 extending period for passing of order under section 73(10) of Central Act issued without any recommendation of GST Council is ultra vires Central Act and same is not legally sustainable in law-Gauhati HC



Where assessee contended that it had filed all returns up to 25-1-2023 when it applied for voluntary cancellation of registration and that purported failure on part of assessee to furnish any returns for any period subsequent thereto could not have constituted a basis for rejection of its application for voluntary cancellation or for passing of impugned order dated 22-7-2024, assessee was to be accorded an opportunity to place said material before competent authority for examination afresh-Delhi HC

The GSTN has issued an update to inform that both Forms GST SPL 01 and GST SPL 02 are available in the GST portal and the taxpayers are advised to file applications under waiver scheme. However, for the appeal applications (APL 01) filed before 21.03.2023, withdrawal option is not available in GST portal. For such cases, the taxpayers are advised to submit their request for withdrawal of appeal applications to the concerned Appellate Authority-GST News Dated 14.01.2025

Where demand was created against assessee for availing excess ITC, and assessee filed petition seeking waiver of pre-deposit for maintainability of appeal under section 107, since issue as to whether any exemption, waiver or any reduction could be granted qua GST demand or not was yet to be adjudicated by instant court, question of law arising in instant petition was to be left open-Delhi HC

Where assessee filed writ petition against show cause notice under section 74(1) of CGST Act for various allegations pertained to complex questions of fact and law which were within jurisdiction of adjudicating authority, assessee not demonstrated any exceptional circumstances warranting Court's intervention, assessee was to be advised to exhaust statutory remedies under CGST Act, writ petition was to be dismissed-Calcutta HC

1. **Madras HC in the case of Thirumagal Dyeing Works Vs Joint Commissioner of GST and Central Excise[W.P.(MD) No.15266 of 2024/W.M.P.(MD) Nos.13383 and 13384 of 2024 Dated 11.11.2024]**

Assessee reversed wrongly availed ITC in GSTR-3B return for month of February, 2020 - First respondent had also ordered that wrongly availed ITC, which was paid/reversed subsequently by assessee, was to be treated as payment under section 73. However, again demand was raised in DRC-07 notice.

HELD : Department should not have included said demand in DRC-07 notice when first respondent himself had ordered such reversal to be treated as payment under section 73 - Demand in respect of said account was wholly erroneous and, therefore, same was to be set aside [Section 73 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017]