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GST Digest

- Recent case laws

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Where on commencement of GST regime, contractor paid GST in respect of contract awarded to him at pre-GST rates, authorities should immediately process claim of contractor for refund of GST- Chattisgarh HC

Where show cause notices were issued to petitioners e.g. Electricity regulatory commissions for levy of tax in respect of fee received in discharge of their regulatory functions, since an electricity regulatory commission acts as a 'tribunal' and regulation of tariff, inter-State transmission of electricity or issuance of license could not be construed as activities undertaken in furtherance of business, said show cause notices were to be quashed-Delhi HC

Where the assessee-contractor was paying GST at rate of 18 per cent with effect from 1-1-2022 but Government entity was still paying same at rate of 12 per cent as per agreement entered earlier, Government Entity was to be directed to pay difference of GST amount to petitioner at rate of 6 per cent from 1-1-2022-Madhya Pradesh HC



The CBIC has issued notification to provide that 18% GST shall be levied on margin of sale of all old and used vehicles if the supplier of such goods has not availed input tax credit-Notification No. 04/2025-Central Tax (Rate) Dated 16.01.2025

The CBIC has issued notification to amend the definition of specified premises (from the services rate and exemption notifications) to link it with actual value of supply of any unit of accommodation provided by the hotel and to make the rate of GST applicable on restaurant services in such hotels, for a given financial year, dependent upon the 'value of supply' of units of accommodation made in the preceding financial year-Notification No. 05/2025-Central Tax (Rate) Dated 16.01.2025

The CBIC has issued notification to provide that 5% GST shall be levied on food inputs of food preparations under HSN 19 or 21 that are supplied for food preparations intended for free distribution to economically weaker sections under a government program subject to the existing conditions-Notification No. 03/2025-Central Tax (Rate) Dated 16.01.2025

Sponsorship services provided by the body corporates would be under Forward Charge Mechanism-Notification No. 07/2025-Central Tax (Rate) Dated 16.01.2025

Compensation Cess to be levied at 0.1% on supplies made to merchant exporters: Notification No. 01/2025-Compensation Cess (Rate) Dated 16.01.2025

CBIC exempts "gene therapy" from levy of GST-Notification No. 02/2025-Central Tax (Rate) Dated 16.01.2025

Show cause notice issued under GST Act challenged for non-compliance with Section 74(5), interim relief granted allowing proceedings to continue while restraining passing of final order without permission-Gujarat HC

1. **Orissa HC in the case of Trinath Khara Vs Principal Commissioner, CGST & Central Excise[W.P. (C) No. 29090 of 2024 Dated 26.11.2024]**

Assessee filed application for revocation of cancellation of registration, but there was delay in filing such application.

HELD : In view of *Mohanty Enterprises v. Commissioner, CT & GST* [W.P. (C) No. 30374 of 2022, dated 16-11-2022 (Orissa)], delay in assessee's invoking proviso to rule 23 of OGST Rules was to be condoned and it was to be directed that subject to assessee depositing all taxes, interest, late fee, penalty etc., due and complying with other formalities, assessee's application for revocation was to be considered in accordance with law [Section 30 of Central Goods and Services Tax Act, 2017/Odisha Goods and Services Tax Act, 2017 - Rule 23 of Central Goods and Services Tax Rules, 2017/Odisha Goods and Services Tax Rules, 2017].

2. **Allahabad HC in Aditi Agri Junction Vs State of U.P.[WRIT TAX No. 248 of 2024 Dated 05.12.2024]**

A show cause notice was issued to assessee proposing to cancel registration on grounds of not filing returns for three consecutive tax periods. Assessee did not reply to same and consequent thereto, order cancelling registration was passed. Assessee also filed an appeal against same and appeal was dismissed for being beyond limitation. Assessee submitted that show cause notice was never received by assessee and also it was incumbent upon respondent authority to fix two dates for filing reply and other for personal hearing, which had not been done.

HELD: It appeared from record that no separate dates were mentioned for filing a reply and for personal hearing, and on basis of said defect alone, a prima facie view could be formed that order suffered from violation of principles of natural justice - Order cancelling registration was to be quashed and matter was to be remanded to pass fresh orders [Section 29 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].