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## GST Digest

- Recent case laws

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Where impugned order was passed under section 73 without service of mandatory notice under section 73 to assessee, following principle that nobody should be condemned unheard, impugned order could not be sustained-Allahabad HC

Audit under section 65 can be conducted even if anti-evasion action was already taken and demand was raised; there is no embargo on conducting audit of a registered person and no time period is prescribed for conducting audit-Punjab and Haryana HC

Where assessment order was not served on assessee by tender or sending it by RPAD but was uploaded in 'View additional notices' column in GST Portal thereby petitioner was unaware of impugned order of assessment, in view of submission of assessee that if petitioner was provided with an opportunity, he would be able to explain alleged discrepancies, assessee would be granted one final opportunity to file objections on payment of 25 per cent of disputed tax-Madras HC



Where Show Cause Notice and Original order were quashed, due to procedural deficiencies under Rule 26(3), however, despite this, a subsequent order was issued by respondent-department against petitioner-assessee on basis of aforesaid quashed Show Cause Notice, therefore, subsequent impugned order was to be set aside on ground that it relied on a quashed show-cause notice-  
Telengana HC

Penalty on goods in transit to be set aside due to lack of evidence of registration cancellation proceedings: Allahabad HC

Where assessee had obtained registration by means of fraud, wilful misstatement or suppression of facts, order of cancellation of registration was to be upheld-Kerala HC

Where assessee wanted to file appeal before Tribunal, but Tribunal had not yet been constituted, on deposit of a part of disputed tax, impugned order was to be stayed-Orissa HC

Where assessee could not file appeal within time and sought login credentials for filing appeal within extended period under amnesty, however due to technical glitch same could not be filed and period extended under amnesty had expired, assessee was to be granted liberty to file appeal within 15 days-J & K & Ladakh HC

Where department issued show cause notice raising demand of Rs. 10.60 crores however in impugned order demand was quantified at 247.32 crores, impugned order traversing beyond show cause notice could not be sustained-Madras HC

Where impugned order was passed after issuance of notice alleging discrepancies in comparison of taxable suppliers reported by assessee through GSTR 3B to compare with Form 26AS, since such notice was uploaded under 'view additional notice and order, impugned order could not be sustained-Madras HC

1. **Allahabad HC in the case of Udai Associates Vs State of UP[WRIT TAX No. 1174 of 2024 Dated 09.01.2025]**

Petitioner's partner diagnosed with cancer and other partners (her husband and son) were preoccupied with partner's treatment, due to which there was negligence in business operations and petitioner failed to file GST returns for six months.

Revenue issued a notice for cancellation of registration on ground that petitioner had failed to continuously furnish returns for a period of six months. Thereafter revenue passed an order of cancelling petitioner's registration. Petitioner further contended that registration of petitioner had been cancelled for reason of Rule 21-A(2-A) of Rules, while notice for cancellation of registration had been issued on ground that petitioner had not filed returns continuously for period of six months.

HELD: Since notice was given for cancellation of registration on ground that returns have not been filed continuously for six months; whereas, order of cancellation of registration had been passed on a different ground that comparison of return as per Rule 21-A(2-A) was not possible, for which petitioner was never put to any notice, order of cancellation of registration was in gross violation of principles of natural justice which could not be sustained in eyes of law. Therefore said order of cancellation was to be quashed and revenue was directed to restore assessee's registration [Section 29 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].

2. **Orissa HC in Alom Extrusions Ltd Vs Chief Commissioner of CT and GST, Odisha[WP(C) No.29659 of 2024 Dated 03.01.2025]**

Impugned adjudication order was passed based on audit report holding that reply of assessee was not acceptable as it was not supported by sufficient documentary evidence. Assessee submitted that said order was made at 23:32 hours on last date of extended time for making of it.

HELD : Considering impugned order was passed without application of mind and said order was passed on last date of extended time, same was to be set aside and assessee was entitled to obtain date of hearing after communicating instant order to authorities [Section 64 of Central Goods and Services Tax Act, 2017/ Odisha Goods and Services Tax Act, 2017]