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GST Digest

- Recent case laws

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The GSTN has issued an update to inform that various requests have been received from the trade seeking time for restricting the editing of auto-populated liability in GSTR-3B from the January 2025 tax period. Therefore, the decision of making non-editable of auto-populated liability in GSTR-3B is currently not being implemented from January tax period, on the GST Portal-GSTN News Dated 28.01.2025

Summary of Show Cause Notice in GST DRC-01 is not a substitute to the Show Cause Notice to be issued in terms with Section 73 [1], irrespective of issuance of summary of show Cause Notice, Proper Officer had to issue a Show Cause Notice to put provision of Section 73 into motion, therefore order passed by revenue against assessee was to be set aside as same was passed without issuing SCN to assessee- Gauhati HC



Where proprietor of assessee-firm died on 25-12-2023 GST registration of firm was cancelled on 16-2-2024 with effect from 31-1-2024, notice issued on 12-2-2024 followed by reminders, ex parte assessment done under section 74 on 20-9-2024, assessment made against a dead person, impugned order was to be set aside-Allahabad HC

The CBIC has issued circular to provide that payment of GST on co-insurance premium apportioned by lead insurer to co-insurer and on ceding /re-insurance commission deducted from the reinsurance premium paid by the insurer to the reinsurer is regularized for the period 01.07.2017 to 31.10.2024, on 'as is where is' basis-Circular No. 244/01/2025-GST Dated 28.02.2025

Where high court held that Input Tax Credit not carried forward from VAT to GST regime through TRAN-1 form can only be claimed as set-off against output tax within prescribed time limits, not as cash refund, SLP filed against same was to be dismissed-Supreme Court

Bail to be granted to tax practitioner for using fake documents to register firm subject to cash security deposit and bail bond with sureties-Jharkhand HC

The CBIC has issued circular to clarify that late fee is not separately leviable for delayed furnishing of FORM GSTR-9 and delayed furnishing of FORM GSTR-9C. Also, it is clarified that no additional late fee shall be payable for delayed furnishing of FORM GSTR-9C which is in excess of the late fee payable under section 47 upto the date of furnishing FORM GSTR-9 for the said financial year-Circular No. 246/03/2025-GST Dated 30.01.2025

Where export proceeds were realized in Indian Rupees, refund could not be denied merely for reason that such proceeds were routed through a freely convertible Vostro account of a non-resident bank-Delhi HC

GST demand raised by dept. which contradicted statements in second notice was liable to be set aside-Madras HC

Where pursuant to an inspection under section 67 at premises of assessee excess stock was found and impugned order was passed under section 130, since instant court on various occasions held that if excess stock is found, proceedings under section 73 or 74 will come into play rather than section 130, impugned order could not be sustained-Allahabad HC

1. Madras HC in the case of National Contracting Company Ltd. Vs Assistant Commissioner (ST)[W.P.No.34936 of 2024/W.M.P.Nos.37883 and 37886 of 2024 Dated 20.11.2024]

Show Cause Notice issued alleging discrepancy between GSTR-Assessee explained discrepancy arose due to TDS deduction in subsequent year. Assessment order traversed beyond Show Cause Notice by raising new issues not covered in notice.

HELD: Assessment order vitiated for non-application of mind to assessee's objections and for going beyond scope of Show Cause Notice. Section 75(7) of CGST Act bars confirmation of demand on grounds not specified in notice. Impugned order set aside and to be treated as Show Cause Notice. Assessee permitted to file fresh objections within 2 weeks - Matter remanded for fresh consideration after giving opportunity of hearing [Section 51 read with Section 75 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017].

2. Madras HC in S.P.K. Enterprises Vs Deputy State Tax Officer-[W.P.No.33875 of 2024/W.M.P.Nos.36691, 36693 and 36689 of 2024 Dated 28.11.2024].

Petitioner filed its return and paid appropriate taxes. However, during scrutiny of petitioner's monthly return, it was found that there was a short payment of taxes due to excess claim of input tax credit and alleged mismatch between GSTR-3B and GSTR-2A/GSTR-2B. A show cause notice was issued to petitioner. However, petitioner had neither filed its reply nor availed opportunity for a personal hearing - Impugned assessment order was passed confirming proposal.

HELD : Impugned assessment order had been passed on premise that there were certain discrepancies between GSTR-3B and GSTR-2A/GSTR-2B and that this resulted in a differential amount under CGST and SGST Act, respectively. It was case of petitioner that alleged discrepancies between GSTR-3B and GSTR-2A/GSTR-2B were never subject matter of notice and thus impugned order could not be sustained. In view of Section 75(7) of GST Act, impugned order was to be set aside and same was to be treated as a show cause notice [Section 75 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017].