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GST Digest

- Recent case laws

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State GST authorities had no jurisdiction to issue show cause notice after CGST authorities had already issued show cause notice on same subject matter-Allahabad HC

No SCN under Section 73 if explanation offered in response to notice was accepted by department-Rajasthan HC

Where petitioner from Mumbai purchased second hand car from Assam, seller purchased same from Marto Lollen, Proprietor of MMD, Arunachal Pradesh, to be delivered in Haryana, vehicle carrying car detained at Hasimara penalty order issued under section 129(3) of WBGST Act, tax invoice not available, documents relied on by petitioner contrary to each other, impugned order did not require any interference-Calcutta HC



Where there was inaction on part of respondent authority on refund claim filed by assessee with regard to tax paid prior to commencement of GST Act, 2017, authorities were to be directed to process claim of assessee within 90 days-*Chattisgarh HC*

Order to be set aside as notices and orders were uploaded under wrong tab 'Additional Notices and Orders' on GST portal-*Madras HC*

Where assessee had filed appeal with delay of 246 days and furnished documents adequately explaining reason for delay, however without appreciating same, appeal was dismissed vide impugned order, impugned order could not be sustained and matter was to be remanded-*Calcutta HC*

Where an order was passed under section 129 against assessee and assessee challenged same on ground that authority passing said order had no jurisdiction, assessee was granted liberty to raise issue before Appellate Authority and goods of assessee were to be released on furnishing of bond and requisite bank guarantee-*Allahabad HC*

Department was directed to pass a fresh order as SCN was not served on assessee before imposing tax liability-*Allahabad HC*

No penalty for wrongly claimed ITC due to unintentional procedural errors arising from technical issues-*Gujarat HC*

Where reply to demand notice was filed belatedly, same was to be considered and recovery proceeding was not to be initiated till order was communicated to assessee-*Orissa HC*

Display of GST order under incorrect portal tab with issues regarding consideration of replies warrants treating order as notice and allowing fresh submissions followed by reasoned order-*Allahabad HC*

No demand to be raised merely on diff. between GSTR-1 & GSTR-3B without considering reply filed by assessee-*Gujarat HC*

1. [Orissa HC in the case of Naresh Kalapa Vs Principal Commissioner, CGST & Central Excise\[W.P.\(C\) No.30734 of 2024 Dated 16.12.2024\]](#)

Assessee filed application for revocation of cancellation of registration, but there was delay in filing such application. Assessee was ready and willing to pay tax, interest, late fee, penalty and any other sum required to be paid for his return Form to be accepted by department.

HELD : In view of *Mohanty Enterprises v. Commissioner, CT & GST* [W.P. (C) No. 30374 of 2022, dated 16-11-2022], 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. [Madras HC in the case of K.C. & Sons Vs Deputy Commissioner \(ST\), GST Appeal\[W.P. No.38488 of 2024/W.M.P. Nos.41690 and 41693 of 2024 Dated 20.12.2024\]](#)

Respondent Failed to Consider That Disputed Excess ITC Had Already Been Reversed. Petitioner-assessee filed GST returns and paid appropriate taxes. Upon scrutiny of returns, respondent-department noticed a mismatch between GSTR 3B and GSTR 2A. Show Cause Notice in DRC-01A was issued regarding mismatch, followed by another notice in DRC-01 and a personal hearing. Petitioner submitted a reply to notice, but, respondent passed assessment order dated 07.12.2023 confirming levy of interest and penalty. Writ Petition was filed by petitioner against aforementioned order on ground that there was a violation of principles of natural justice, as respondent continued to pass impugned order, overlooking fact that disputed excess ITC had already been reversed in 2019.

Held: In instant case, petitioner had already reversed ITC, which was in dispute - Therefore, impugned order was to be set aside - Further, impugned order was to be treated as show cause notice and petitioner was granted a reasonable opportunity to file objections [Section 50, Section 16 and Section 17 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017]