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GST Digest

- Recent case laws

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Where assessee aggrieved by order passed by first appellate authority wanted to file appeal before Tribunal, however same had not yet been constituted, appellate order was to be stayed subject to deposit of 10 percent of balance amount of tax in dispute-Orissa HC

Where registration of assessee was cancelled retrospectively and application for revocation of application was also rejected, since cancellation of registration would not have rendered assessee ineligible to apply for fresh registration, writ petition against cancellation orders was not to be entertained-Delhi HC

Where FIR was registered against petitioner for wrongful availment of ITC of huge amount, since investigation in said FIR was pending and after institution of same, several other offences of similar nature had been registered against petitioner, bail application of petitioner was to be dismissed-Gujarat HC



Eligibility of transitional input tax credit under GST regime cannot be denied on grounds of inadmissibility under repealed VAT Act; such matters must be adjudicated under provisions of the repealed Act, not under GST Act-Jharkhand HC

Where petitioner was arrested under sections 69 and 132 of CGST act, however arrest memo was not attested by a relative of petitioner or a person from society where arrest was made, such arrest was bad in law, thus petitioner was to be granted bail-Calcutta HC

Where petitioner's goods were seized under Section 129(3) and since in original proceeding or in summary proceeding, primary burden is to be discharged by assessee by bringing on record cogent material, however petitioner had utterly failed to bring on record any cogent material for transporting goods from West Bengal/Assam to Delhi via Kanpur, instant writ petition was dismissed for lack of merit-Allahabad HC

Where petitioner's goods were seized under Section 129(3) for undervaluation, since petitioner had intentionally undervalued goods to take wrong advantage of Rule 138, which dispenses requirement of an e-way bill accompanying goods, thus, no interference was called for by instant Court in impugned seizure order and instant writ petition was to be dismissed-Allahabad HC

Where assessee's appeal against order under section 73(9) of CGST Act was rejected because assessee had not replied to show cause notice issued to explain delay, there was a delay of only 8 days and appropriate explanation had been provided by assessee for delay which was overlooked by appellate authority, impugned appellate order was to be set aside and matter was to be remanded back to appellate authority for a decision on merits-Calcutta HC

Where compliance with pre-deposit requirement is substantively met by crediting 10% of disputed tax to electronic cash ledger within stipulated time, non-generation of DRC-03 challan constitutes merely technical violation under Section 107 of CGST Act-Madras HC

Where assessee registered under Kerala VAT Act, 2003 committed an error while filing TRAN-1 and impugned order was passed rejecting same, assessee could not be denied or varied on account of procedural defects, thus impugned order was to be set aside and steps were to be taken to allow assessee to file revised TRAN-1-Kerala HC

1. **Gauhati HC in the case of Bitupan Doley Vs State of Assam[WP(C) No. 711 of 2025 Dated 18.02.2025]**

Assessee impugned order passed under section 73 of AGST Act on ground that there was no proper and prior show cause notice prescribed under section 73(1) of AGST Act. Assessee submitted that only attachment to determination of tax under section 73(3) and a summary of show cause notice in Form GST DRC-01 were annexed.

HELD: Non-issuance of a proper and prior show cause notice and issuance of only summary of show cause notice and attachment to determination of tax cannot be said to be in compliance with section 73(1) and Rule 142(1) of AGST Rules. Compliance of provisions contained in sub-section [1] to sub-section [8] and sub-section [10] to sub-section [11] of section 73 and sub-rule [1] of Rule 142 are conditions precedent to term an order passed under sub-section [9] of section 73 as a valid one - Therefore, impugned order was to be set aside [Section 73 of Central Goods and Services Tax Act, 2017/Assam Goods and Services Tax Act, 2017; Rule 142 of Central Goods and Services Tax Rules, 2017/ Assam Goods and Services Tax Rules, 2017].