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GST Digest

- Recent case laws

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Where registration of assessee was cancelled from retrospective date without giving prior notice with regard to same, order cancelling registration was to be modified to extent that registration was to be treated as cancelled from date of show cause notice-Delhi HC

Where assessee challenged notifications issued by central as well as state government extending time limit under section 168A for adjudication of show cause notice issued for 2019-20, respondents were to be directed to file reply and in meantime interim relief was to be granted to assessee until further orders-Bombay HC

Where a show cause notice was issued to assessee on GST portal to which assessee did not file reply and impugned order was passed disallowing ITC claimed by assessee, by adopting a justice oriented approach and in order to provide one more opportunity to assessee to file reply and contest tax demand, impugned order was to be set aside and matter was to be remanded-Karnataka HC



Relying on Delhi High Court decision in Chegg India Pvt. Ltd. v. Union of India & Ors., W.P. (C) No. 1062/2024, condition for physically filing certified copy of order is not mandatory but procedural in nature and if an appeal is preferred along with all documents and copy of appeal, filing of certified copy not required, impugned order rejecting assessee's appeal against order under section 73(1) for not filing certified copy of impugned order was to be set aside-Allahabad HC

Where, assessee's claim of refund was sanctioned pursuant to court's decision, subsequently impugned SCN was issued under section 74 of CGST Act, initiating proceedings again for same tax period, rested on allegation that sanction of refund appeared to be erroneous in light of incorrect conclusion that activities undertaken by assessee amounted to an export of services, without allegations of collusion, misstatement or wilful suppression of facts, impugned SCN was to be set aside-Delhi HC

Order to be set aside as rectification application was wrongly dismissed despite taxpayer's clarification on financial year-Kerala HC

Where pursuant to audit, certain defects were found and a notice was issued to assessee to which assessee filed reply, however impugned order was passed without granting any opportunity of hearing to assessee and without considering reply of assessee, such order being in violation of natural justice, respondents were to be directed to redo assessment-Madras HC

Matter remanded as assessee's request for one more chance to submit additional evidence was not properly addressed-Karnataka HC

Orders under Section 74 without allegations of fraud or willful misstatement to be treated as issued u/s 73 enabling eligibility for Amnesty Scheme-Madras HC

Writ dismissed as assessee failed to appear for personal hearing and did not avail statutory remedy-Allahabad HC

1. Allahabad HC in the case of Solvi Enterprises Vs Additional Commissioner Grade 2[WRIT TAX No. - 1287, 1285, 1288, 1289 and 1282 of 2024 Dated 24.03.2025]

Proceedings under section 74 of GST Act were initiated against assessee vide notice to which a detailed reply was submitted, however, without considering same, impugned order was passed. Appeal filed by assessee was also dismissed vide impugned order. Assessee submitted that it purchased goods from a registered dealer vide tax invoice, which was generated by seller from GST Portal. Date of transaction in question was 6-12-2018, however, registration of selling dealer had been cancelled with effect from 29-1-2020. Assessee further submitted that selling dealer had filed its return therefore, GSTR-2A was auto generated, showing transaction were genuine. Assessee claimed that, merely at subsequent stage, if registration had been cancelled, assessee could not be held responsible for same.

HELD: Date of transaction was admittedly prior to date when registration of selling dealer had been cancelled - After filing of GSTR-01, an auto populated window get opened for filling GSTR-3B for payment of tax and GSTR-2A could be viewed by purchaser of goods. Under GST regime, all details are available in GST Portal and therefore, authorities ought to have verified same as to whether filing of GSTR-1A and GSTR-3B, how much tax had been deposited by seller, but authorities had failed to do so. Therefore, impugned orders were to be set aside. [Section 74 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].