



A.C. Bhuteria & Co.
Chartered Accountants

16, Strand Road, Diamond Heritage,
Room No. H-703,
Kolkata – 700001

Ph: 033-46002382/ 40032841
Email id: info@acbhuteria.com

GST Digest

- Recent case laws

April 21, 2025



Where assessment orders lack signature of assessing officer and Document Identification Number (DIN), such orders are non-est and invalid under GST law-Andhra Pradesh HC

Where assessment order was passed based on mismatch between Form GSTR-3B and Form 26AS without serving show cause notice and assessment order to assessee by tender or sending it by RPAD but by uploading in GST portal, assessee was to be granted one final opportunity to explain discrepancies-Madras HC

Where in order of cancellation of registration, it was stated that no reply to show cause notice was submitted while assessee had filed detailed reply to said notice, order was to be quashed-Gujarat HC

Municipal property tax levied under Kolkata Municipal Corporation Act, 1980 being a tax other than CGST Act/WBGST Act/UTGST Act/GST (Compensation to States) Act, shall form a part of value of supply on which GST will be levied- AAR West Bengal



While issuing deficiency memo respondent-authority had not uploaded its order of rejection in relevant portal as a result of which writ petitioner was deprived of preferring an appeal before appropriate authority, issue of refund of CESS claimed to be paid by assessee without liability was to be rejudicated-Calcutta HC

Where high court in a challenge to demand of advertisement tax by Kanpur Nagar Nigam held that advertisement tax stood deleted by virtue of section 173 thus demand of tax on advertisement from petitioners after 1.7.2017 was illegal and without jurisdiction and directed to refund amount collected from petitioners, said order being crystal clear, application filed by Kanpur Nagar Nigam seeking clarification of same was to be dismissed-Allahabad HC

Where pursuant to adjudication under section 73, assessee filed an application for rectification and same was rejected vide impugned order, since nature of application filed by assessee for rectification was completely vague and no contention was raised, it could not be said that authority was not justified in rejecting same, thus, there was no ground to interfere with impugned order-Allahabad HC

Where show cause notice under Section 74 failed to comply with Rule 142 of CGST Rules and lacked jurisdictional basis due to absence of tax evasion allegations, interim stay granted against final order passed during pendency of petition-Madhya Pradesh HC

Where assessee challenges show cause notice based on disputed questions of fact regarding credential misuse and alleged identity theft, such matters require factual investigation by competent authorities rather than judicial determination-Delhi HC

Penalty to be upheld as willful suppression inferred from continued non-compliance and absence of valid justification-Andhra Pradesh HC

1. **Bombay HC in the case of Goa University Vs Joint Commissioner of Central Goods and Service Tax**[WRIT PETITION NO.723 of 2024 Dated 15.04.2025]

A show cause notice was issued to assessee-university demanding service tax on affiliation fee. On basis of reply of assessee, said proceeding was dropped. An intimation was issued to assessee in form DRC-01A under section 74(5) demanding GST payable on affiliation services amounting to Rs. 1.90 crore along with applicable interest and penalty. Assessee replied to said notice denying demand as demand was based on exempted supply. Thereafter impugned order in original was passed. Assessee challenged said order on grounds that activities of assessee, an university set up by state legislation, did not fall under definition of business as set out in clause (a) to (c) of section 2(17).

HELD : Affiliation fees collected by assessee was not a consideration as contemplated in section 7, as fees were collected in nature of statutory fee or regulatory fee in terms of statutory provisions and were not contractual in nature - Therefore, activities of assessee not being commercial in nature, were not amenable to GST - There was a complete absence of jurisdictional facts to issue impugned show cause notice, therefore, same was to be quashed [Section 11, read with 7 and 2(17), of Central Goods and Services Tax Act, 2017].

2. **Madras HC in the case of C.M.K. Textiles Vs Assistant Commissioner Tiruppur**[W.P.Nos.10 642 & 10644 of 2025/ W.M.P.Nos.11984, 11985, 11988 & 11989 of 2025 Dated 24.03.2025]

Show Cause Notices and ex-parte assessment orders were uploaded only on GST Portal. Assessee was unaware of proceedings. Violation of principles of natural justice. Respondent-department had issued show cause notices and personal hearing notices to petitioner-assessee under Section 73 alleging tax dues. However, petitioner neither filed their reply nor appear for personal hearing. Subsequently, respondent passed ex-parte assessment orders against petitioner confirming tax demands and uploaded summary of orders in Form GST-DRC-07. Writ petitions were filed against aforesaid orders on ground that petitioner was unaware of proceedings as notices and assessment orders were only uploaded on GST portal and were not served by any other means, thereby, violating principles of natural justice.

Held- In instant case, respondent passed impugned orders without even affording any opportunity of hearing to petitioner, thereby, violating principles of natural justice. Furthermore, petitioner was also willing to pay 25% of disputed taxes. Therefore, in view thereof, impugned orders were to be set aside - Upon compliance with required conditions, petitioner was directed to file a reply along with supportive documents.[Section 73 of Central Goods and Services Tax Act, 2017/Tamil Nadu Goods and Services Tax Act, 2017].