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## GST Digest

- Recent case laws

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Where proceedings initiated under Section 74 of CGST Act, they can be converted to Section 73 proceedings to allow benefit of Amnesty Scheme under Section 128A-Karnataka HC

Where show cause notice was issued to assessee when assessee was having registration under GST Act, but by time adjudication order was passed under section 73, assessee was not having U.P. GST registration, in view of fact that assessee did not receive notice of hearing, adjudication order was to be passed afresh after providing opportunity of hearing to assessee-Allahabad HC

Where pursuant to cancellation of registration, a show cause notice was issued to assessee through e-mode and it was not case of revenue that any physical service of notice was made, impugned adjudication order was to be set aside for violation of natural justice-Allahabad HC



Where show cause notice based on SIB report was issued and request for copy of report was denied, order raising demand quashed and matter remanded with direction to supply SIB report and provide fresh hearing opportunity-Allahabad HC

Where a property of assessee was sold in e-auction and same was further attached for recovery of tax, assessee was to be directed to pay remaining outstanding dues to government to facilitate registration of sale certificate in favour of successful bidder-Madras HC

The Government has notified the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025, effective from April 24, 2025, to regulate the procedure and functioning of the GST Appellate Tribunal under the CGST Act, 2017- Notification dated 24.04.2025

Where partly constructed shopping mall is purchased on "as is where is" basis without any construction service element, transaction constitutes sale of immovable property under Schedule III Entry 5, not attracting GST-Karnataka HC

Where impugned order was passed pursuant to issuance of show cause notice alleging violation of rule 96(10), in petition filed by assessee challenging impugned order on ground that rule 96(10) had been omitted, notice was to be issued to respondents and in meantime no coercive action was to be taken by respondents-Gujarat HC

If Appellate Authority had any doubts with regard to authority of signatory of appeal, it was his duty to call upon appellant for verification; dismissal of appeal merely on ground of non-filing of Board Resolution was not sustainable-Bombay HC

Duplicate demand can be challenged before Appellate Authority; relief in pre-deposit to be granted to assessee-Delhi HC

**1. Allahabad HC in the case of Satyam Traders Vs State of U.P[WRIT TAX No. - 1095 of 2025 Dated 19.03.2025]**

Although original invoice was not present with goods, a photocopy of same was available. Weight of truck that was weighed two days after detention was more than weight shown in invoice - E-way bill was found to be generated properly and was present with goods. Petitioner explained that due to rain, weight of goods might have increased and that difference in weight was negligible and was only 1 per cent. In order passed under section 129(3), authorities had accepted explanation of petitioner with regard to difference in weight and only reason for which penalty was imposed was with regard to absence of original copy of invoice.

HELD : Since photocopy of invoice along with e-way bill was present, there was no intention to evade tax as invoice that was present along with goods was matching with e-way bill and there was no discrepancy between two. Since no mens rea to evade tax was there, detention proceedings along with order under section 129(3) were arbitrary and invalid in law [Section 129 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].

**2. Kerala HC in the case of Surya Resmi Traders Vs State Tax Officer[WP(C) NO. 7666 OF 2025 Dated 25.02.2025]**

Assessee contended that show cause notice under Section 73 and order of determination of tax were both uploaded in "additional notices/orders" tab of GST portal instead of "notices and orders" tab without any notification through email or SMS - Appellate authority dismissed appeal on ground of delay despite assessee's contention about improper service.

HELD: Uploading notices and orders for first time in tab for additional notices and orders without appropriate instructions cannot amount to proper service - Following earlier decision in M/s. Ramanattu Motor Corp. v. State of Kerala & Ors - Appellate authority's order set aside - Appeal to be considered on merits, treating it as filed within time - Writ Petition allowed [Section 73 of Central Goods and Services Tax Act, 2017/Kerala Goods and Services Tax Act, 2017].