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GST Digest

- Recent case laws

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Order to be set aside as transaction of assignment of industrial plot is not subject to GST -Gujarat HC

Where assessee had neither submitted reply to pre-intimation notice or show-cause notice, nor did contest proceedings which culminated in ex-parte order, since assessee had asserted that his inability and omission to submit replies and contest proceedings was due to bona fide reasons, unavoidable circumstances and sufficient cause, matter was to be remitted back to Competent Authority for reconsideration-Karnataka HC

Where persons are part of syndicate involved in fraudulent ITC scheme and fail to specifically deny allegations in their reply, penalty under Sections 74 and 122 of GST Act can be validly imposed against them-Gujarat HC

Order to be set aside as demand exceeded amount proposed in SCN violating section 75(7)-Allahabad HC



Where Assistant Commissioner rejected refund claim exceeding Rs.10 lakhs despite departmental circular requiring Special Commissioner to handle such claims, order set aside as issued without jurisdiction-Delhi HC

In absence of any material referred to by respondent as to on what basis it was held that petitioner was continuing business in name of his father's proprietary concern after his father's death in spite of petitioner obtaining a fresh registration in his own name, impugned order was to be set aside-Jharkhand HC

Where pursuant to issuance of show cause notice, impugned order was passed, since such notice was uploaded on portal under 'view additional notice' tab, following decision in Kamla Vohra v. Sales Tax Officer Class II [2024] 164 taxmann.com 549 (Delhi), assessee deserved an opportunity to reply to show cause notice, accordingly, impugned order was to be set aside and matter was to be remanded-Delhi HC

Order to be set aside as minor error in invoice number on e-way bill did not warrant detention proceedings-Allahabad HC

Where appeal filed by assessee against assessment order was dismissed as barred by limitation and while passing said order, time spent by assessee before High Court and Supreme Court in challenge to said order was not considered by appellate authority, order dismissing appeal was to be quashed and matter was to be remanded to pass fresh orders-Allahabad HC

Where temporary registration expired and defects in appeal could not be cured, appellate authority was directed to grant opportunity to rectify defects and dispose of appeal within specified timeframe-Kerala HC

Where assessee fails to respond to multiple GST notices pointing out tax return discrepancies, passing of assessment order levying tax, interest, and penalty as indicated in show cause notice is justified-Allahabad HC

Amended Rule 89(5) of CGST Rules, 2017 is clarificatory and applicable to all refund claims-Gujarat HC

1. Allahabad HC in the case of National Fertilizers Ltd. Vs Principal Commissioner, CGST and Central Excise Commissionerate, LKO[WRIT TAX No. - 298 of 2025 Dated 07.04.2025]

Writ petition disposed Instant application was filed challenging order passed in appeal preferred by assessee, whereby appeal came to dismissed on grounds of no-deposit of mandatory pre-deposit under section 107. Assessee submitted that at time of hearing of appeal, no objection with regard to non-deposit of amount was ever raised and no issue was raised that deposit of amount by assessee through electronic ledger was not valid.

HELD : Commissioner (appeals) was of view that deposit made by assessee through electronic credit ledger was not valid, but assessee should have been confronted with same before passing of impugned order - In view of same, impugned order was to be quashed and matter was to be remanded to decide afresh [Section 107 of Central Goods and Services Tax Act, 2017/ Uttar Pradesh Goods and Services Tax Act, 2017].

2. Delhi HC in the case of Shalender Kumar Vs Commissioner Delhi West CGST Commissionerate[W.P.(C) 3824 of 2025 Dated 03.04.2025]

A show cause notice was issued to assessee proposing to reject refund claim on ground that licences of suppliers were cancelled and thereafter an order in original was passed. Assessee challenged same in appeal and Appellate Authority allowed refund. Department filed a review against said order. Assessee filed instant petition and submitted that no order had been filed in review, order of appellate authority had not been challenged, therefore, refund ought have been processed in accordance with order of Appellate Authority.

HELD : In absence of an appeal or any other proceeding pending against Appellate Authority, opinion under section 54(11) could not result in holding back refund - Therefore, refund was liable to be allowed in terms of order passed by Appellate Authority [Section 54 of Central Goods and Services Tax Act, 2017/ Delhi Goods and Services Tax Act, 2017].