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## GST Digest

- Recent case laws

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Clear objective of section 61 is to enable an Assessing Officer to point out discrepancies and errors which are occurring in return filed by a registered person with that of related particulars; notice under section 61 cannot be issued comparing particulars at which assessee has sold its goods with that of prevalent market price-Jharkhand HC

Where appeal of assessee was rejected by disregarding speed post slip and no contrary evidence was produced to doubt correctness of such slip, since appeal could be filed within extended period of one month and delay was only of 4 days, order passed in appeal was to be set aside and appeal was to be restored-Bombay HC

Where assessee's vehicle with goods was detained under section 129(1) of UPGST Act, it was found that transportation was being done through different vehicle in place of vehicle declared in e-way bill and validity of one e-way bill was only till 15-1-2023 while it was being transported on 19-1-2023, assessee had not complied with provisions of law, writ petition was to be dismissed-Allahabad HC



The GSTN has issued an advisory for taxpayers clarifying that appeals withdrawn through Form APL-01W, whether automatically before issuance of Form APL-02 or with approval thereafter will be treated as withdrawn for the purposes of the Section 128A Waiver Scheme. Taxpayers must upload a screenshot showing the "Appeal withdrawn" status when filing or updating the waiver application- GSTN News Dated 14.05.2025

Authority can't ask assessee to reverse ITC again despite same being reversed prior to SCN issuance- Gujarat HC

Where petitioner-director of a company filed writ petition challenging levy of penalty on him on ground of ITC fraud and took stand that he had already resigned at relevant time, since matter required closer scrutiny on facts as to who was responsible for running company, petitioners should avail appellate remedy

Also Filing of appeal under section 107 is permissible by any person and not merely by a taxable person-Delhi HC

Assessee who was unaware of SCN issued and order passed after cancellation of registration to be permitted to file appeal-Delhi HC

Stay granted as assessee was denied amnesty scheme benefit owing to section 74 invoked without fulfilling its essential conditions-Orissa HC

Applicants to be released on bail as trial for alleged offences would take considerable time to conclude: Allahabad HC

Where GST Authorities had considered, assignment of leasehold rights of a plot of land allotted on lease by MIDC and buildings constructed thereon by lessee to a third party on payment of a lump-sum consideration, as a supply of service, in Gujarat Chambers of Commerce and Industry v. Union of India [2025] 170 taxmann.com 251 (Gujarat) court had held same to be not covered by scope of supply, ad-interim relief was to be granted to petitioner-assessee by staying impugned orders-Bombay HC

1. **Gujarat HC in the case of H N Cotex (P.) Ltd. Vs State of Gujarat[R/SPECIAL CIVIL APPLICATION NO. 5796 of 2024 Dated 28.03.2025]**

Assessee engaged in textile manufacturing availed Input Tax Credit (ITC) on supplies received from various vendors. Revenue authorities issued show cause notice alleging ITC of Rs. 52,68,624/- was wrongly availed through bogus suppliers. Impugned order passed without granting personal hearing to assessee.

HELD: Section 75(4) of CGST Act mandates opportunity of personal hearing where adverse decision is contemplated, even without specific request from taxpayer. Failure to provide hearing constitutes violation of principles of natural justice - Order-in-original quashed and matter remanded to authorities to pass fresh order after providing opportunity of hearing. Authorities directed to complete fresh adjudication within 12 weeks - Special Civil Application allowed [Section 75 of Central Goods and Services Tax Act, 2017/Gujarat Goods and Services Tax Act, 2017].

2. **Allahabad HC in the case of Genius Ortho Industries Vs Union of India[WRIT TAX No. - 542 of 2023 dated 24.04.2025]**

Registration of assessee was cancelled on ground that no reply was submitted to show cause notice by assessee for non-availability of any input, finished goods or worker in registered premises at time of survey conducted at business premises of assessee. Against order of cancellation of registration an appeal was filed by assessee, which had also been dismissed by impugned order. Assessee submitted that it was never put to any notice about material found against assessee during said survey of business premises and therefore, orders impugned were passed in gross violation of principle of natural justice.

HELD: Notice was issued for cancellation of registration with one sentence discrepancies noticed while physical verification, to which a reply was submitted - However, in counter affidavit, it had clearly been mentioned that on being enquired during physical verification of premises, watchman told "Kabhi Kabhar Chalti Hai", which showed that activities of business were being undertaken by assessee. However, without giving due weightage to specific statement made by watchman, impugned order had been passed - Further, for material used against assessee for cancellation of registration, no notice was ever put to assessee. Accordingly, impugned order was to be set aside [Section 29 of Central Goods and Services Tax Act, 2017/Uttar Pradesh Goods and Services Tax Act, 2017].