

DIRECTORATE OF TRAINING, EXCISE AND
TAXATION DEPARTMENT,
PUNJAB, PATIALA

GST UPDATE
(January 2024)

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(I) CENTRE GST NOTIFICATIONS

1. Notification No No. 05/2024 – CENTRAL TAX

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION
No. 05/2024 – CENTRAL TAX

New Delhi, dated the 30th January, 2024

G.S.R...(E).— In exercise of the powers under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 02/2017-Central Tax, dated the 19th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 609(E), dated the 19th June, 2017, namely:—

In the said notification, in Table II, in serial number 83, in column (3), in clause (ii), after the figure and letter “411060,” the figure and letter “411069,” shall be inserted.

[F. No. CBIC-20016/18/2023-GST]

(Raghavendra Pal Singh)

Director

Note:-The principal notification No. 02/2017-Central Tax, dated the 19th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 609(E), dated the 19th June, 2017 and was last amended by notification No. 39/2023-Central Tax, dated the 17th August, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 612(E), dated the 17th August, 2023.

2. NOTIFICATION NO. NO. 04/2024–CENTRAL TAX

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART II, SECTION 3, SUBSECTION (ii)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION
NO. 04/2024–CENTRAL TAX

New Delhi, the 5th January, 2024

S.O...(E).—In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the following special procedure to be followed by a registered person engaged in manufacturing of the goods, the description of which is specified in the corresponding entry in column (3) of the Schedule appended to this notification, and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedule, namely:—

1. Details of Packing Machines.— (1) All the registered persons engaged in manufacturing of the goods mentioned in Schedule to this notification shall furnish the details of packing machines being used for filling and packing of packages in FORM GST SRM-I, electronically on the common portal, within thirty days of coming into effect of this notification.
- (2) Any person intending to manufacture goods as mentioned in the Schedule to this notification, and who has been granted registration after the issuance of this notification, shall furnish the details of packing machines being used for

filling and packing of packages in FORM GST SRM-I on the common portal, within fifteen days of grant of such registration.

- (3) The details of any additional filling and packing machine being installed at the registered place of business shall be furnished, electronically on the common portal, by the said registered person within twenty four hours of such installation in PART (B) of Table 6 of FORM GST SRM-I.
- (4) If any change is to be made in the declared capacity of the machines, the same shall be furnished, electronically on the common portal, by the said registered person within twenty four hours of such change in Table 6A of FORM GST SRM-I.
- (5) Upon furnishing of such details in FORM GST SRM-I, a unique registration number shall be generated for each machine, the details of which have been furnished by the registered person, on the common portal.
- (6) In case, the said registered person has submitted or declared the production capacity of his manufacturing unit or his machines, to any other government department or any other agency or organisation, the same shall be furnished by the said registered person in Table 7 of FORM GST SRM-I on the common portal, within fifteen days of filing such declaration or submission:
Provided that where the said registered person has submitted or declared the production capacity of his manufacturing unit or his machines, to any other government department or any other agency or organisation, before the issuance of this notification, the latest such certificate in respect of the manufacturing unit or the machines, as the case may be, shall be furnished by the said registered person in Table 7 of FORM GST SRM-I on the common portal, within thirty days of issuance of this notification.
- (7) The details of any existing filling and packing machine disposed of from the registered place of business shall be furnished, electronically on the common portal, by the said registered person within twenty four hours of such disposal in Table 8 of FORM GST SRM-I.

2. Special Monthly Statement.— The registered person shall submit a special statement for each month in FORM GST SRM-II, electronically on the common portal, on or before the tenth day of the month succeeding such month.

3. Certificate of Chartered Engineer.— (1) The taxpayer shall upload a certificate of Chartered Engineer FORM GST SRM-III in respect of machines declared by him, as per para 1 of this notification, in Table 6 of FORM GST SRM-I.

(2) If details of any machine are amended subsequently, then fresh certificate in respect of such machine shall be uploaded.

4. This notification shall come into effect from 1st day of April, 2024.

Schedule

S. No.	Chapter /Heading /Subheading /Tariff item.	Description of Goods.
(1)	(2)	(3)
1.	2106 90 20	Pan-masala
2.	2401	Unmanufactured tobacco (without lime tube)– bearing a brand name
3.	2401	Unmanufactured tobacco (with lime tube)– bearing a brand name
4.	2401 30 00	Tobacco refuse, bearing a brand name
5.	2403 11 10	‘Hookah’ or ‘gudaku’ tobacco bearing a brand name
6.	2403 11 10	tobacco used for smoking ‘hookah’ or known as ‘hookah’ tobacco or ‘gudaku’ not bearing a brand name
7.	2403 11 90	Other water pipe smoking tobacco not bearing a brand name.
8.	2403 19 10	Smoking mixtures for pipes and cigarettes
9.	2403 19 90	Other smoking tobacco bearing a brand name
10.	2403 19 90	Other smoking tobacco not bearing a brand name
11.	2403 91 00	“Homogenised” or “reconstituted” tobacco, bearing a brand name
12.	2403 99 10	Chewing tobacco (without lime tube)
13.	2403 99 10	Chewing tobacco (with lime tube)
14.	2403 99 10	Filter khaini
15.	2403 99 20	Preparations containing chewing tobacco
16.	2403 99 30	Jarda scented tobacco
17.	2403 99 40	Snuff
18.	2403 99 50	Preparations containing snuff

19.	2403 99 60	Tobacco extracts and essence bearing a brand name
20.	2403 99 60	Tobacco extracts and essence not bearing a brand Name
21.	2403 99 70	Cut tobacco
22.	2403 99 90	Pan masala containing tobacco 'Gutkha'
23.	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name
24.	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name

Explanation.— (1) In this Schedule, “tariff item”, “heading”, “sub-heading” and “Chapter” shall mean respectively, a tariff item, heading, sub-heading and Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the section and chapter notes and the General Explanatory notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

(3) For the purposes of this notification, the phrase “brand name” means brand name or trade name, whether registered or not, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is used in relation to such specified goods for the purpose of indicating, or so as to indicate a connection in the course of trade between such specified goods and some person using such name or mark with or without any indication of the identity of that person.

FORM GST SRM-I

Registration and disposal of packing machines of pan masala and tobacco products

1. GSTIN	
2. Legal name	
3. Trade name, if any	

4. ARN	
5. Date of filing	

6. Details of the machines

Sr. no.	Make, if available.	Model no., if available.	Name of manufacturer.	Machine no.	Date of purchase.	Address of the place of installation.	No. of tracks.	Weight of package-s which can be packed on the machine (in grams).	Packing capacity of each track (No. of packages which can be packed for a particular weight of package).	Total packing capacity of the machine for a specific weight of package to be packed.	Electricity consumption capacity of the machine per hour (KWH).	Registration no. of the machine (to be autogenerated by the system).	Working status (Y/N)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11) (8x10)	(12)	(13)	(14)
Part (A) Existing													
Part (B) Newly Added													

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6A. Amendment to the details of machines.

Sr. no.	Registration no. of the machine.	Machine no.	Model no.	Name of manufacturer.	Machine no.	Date of purchase.	Address of place of installation.	No. of tracks.	Weight of package -s which can be packed on the machine (in grams).	Packing capacity of each track (No. of packages which can be packed for a particular weight of package).	Total packing capacity of the machine for a specific weight of package to be packed.	Electricity consumption capacity of the machine per hour (KWH).	Working status (Y/N).	Date of change in any parameter listed.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
											(9x11)			

7.Details of the intimation of the machines furnished to other departments.

Sr. no.	Date of intimation.	Name of Govt. department / any other agency or organisation.	Details of declaration (to be uploaded as pdf).
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(1)	(2)	(3)	(4)

8. Disposal of the packing machines.

Sr. no.	Registration no. of the machine.	Make.	Model no.	Name of manufacturer.	Machine no.	Date of purchase.	Address of place of installation.	No. of tracks.	Weight of packages which can be packed on the machine (in grams).	Packing capacity of each track (No. of packages which can be packed for a particular weight of package)	Total packing capacity of the machine for a specific weight of package to be packed.	Date of disposal.	Reason of disposal (Supplied/ Condemned).
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)

9. Product details.

Sr. no.	Brand name.	Packing type.	Quantity in grams in each package.	HSN.	Description of the product.
(1)	(2)	(3)	(4)	(5)	(6)

10. Details of the Documents uploaded.

<ol style="list-style-type: none"> 1. Certificate of chartered engineer. 2. Information given to other departments 3. Any other document to be mentioned by taxpayer.
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11. Verification

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory
Name
Designation / Status

Place

Date

Instructions to Form GST SRM-1

1. Terms used:

- (i) GSTIN: Goods and Services Tax Identification Number
- (ii) HSN: Harmonized System of Nomenclature
- (iii) MRP: Maximum Retail Price
- (iv) KWH: Kilo Watt Hour (v) Packing type: Pouch, Zipper etc.

2. Table 6: Details of existing machines should be provided in Part-A and details of new machines added thereafter have to be provided in Part-B. Column wise details of the information to be provided is given in the table below:

Column no.	Description
(2).	Make of the machine, if available should be provided as to whether it is semi-automatic or automatic .
(3).	Mention model number of the machine, if available.
(4).	Name of the manufacturer of the machine to be provided.
(5).	Machine number to be provided.
(6).	Date of purchase as mentioned on the invoice or any other document in lieu thereof, issued by supplier, have to be provided.
(7).	Address of the place where machine has been installed has to be selected from the drop down provided for the same based on the details of places of business provided by the manufacturer in FORM GST REG-01.
(8).	Number of tracks associated with the machine to be provided.
(9).	Weight of package which can be packed by the machine (in grams) is to be declared here. The registered person can enter multiple entries of the same for each machine.
(10).	Packing capacity of each track has to be provided in terms of number of packages which can be packed by the machine on the said track per hour for the particular weight of package declared in column 9.
(11).	Total packing capacity of the machine for a specific weight of package which can be packed would be computed by System based on information provided in column 8,9 &10.
(12).	Electricity consumption capacity of the machine to be provided in KWH.
(13).	Unique registration no. of the machine would be generated by System after filing the form. Structure of the unique no. will be GSTIN followed by three digits.
(14).	Whether the machine is working or is at standby. Accordingly, Y or N to be selected from the drop down menu.

3. Table 6A: Amendment to the details of the machine already provided in Table 6 or amended thereafter to be provided. After entering registration number of the machine assigned by the System in column 12 of Table 6 , other details of the machine would be auto-populated. The same can be edited wherever required. Certificate of chartered engineer shall also be uploaded for the machines whose

details have been amended if the particulars given in the certificate uploaded earlier undergoes any change and the details of the documents uploaded should be given in Table 10. Any such change in any of the details of the machine including its working status which needs to be amended, has to be communicated within twenty four hours of the said change carried out by the registered person.

4. Table 7: Details of the intimation of the machines furnished to other department have to be provided. Documents should be uploaded in pdf format after making entries and the details of the documents uploaded should be given in Table 10.
5. Table 8: Details of the machines disposed of (supplied /condemned) shall be provided. After entering registration number assigned to the machine by the System, other details would be auto-populated. Date of disposal and reason for the same to be provided.
6. Table 9: Details of the brands, packing type, HSN and description of the products manufactured to be provided in this table. If there is any change in the information already furnished in this table, the details need to be amended accordingly.
7. Table 10: List of Documents uploaded:
 - Single Certificate of chartered engineer to be uploaded in pdf format for all machines in the format as per FORM GST SRM-III after entering the particulars of the machines.
 - Certificate of chartered engineer, in the format as per FORM GST SRM-III, shall also be uploaded for the machines whose details have been amended if the particulars given in the certificate uploaded earlier undergoes any change.
 - Document in pdf format providing details of the intimation of the machines furnished to other department have to be uploaded.

FORM GST SRM-II

Monthly Statement of inputs used and the final goods produced by the manufacturer of goods specified in the Schedule

1. GSTIN	
2. Legal name	

3. Trade name, if any	
4. Financial year	
5. Tax period	
6. ARN	
7. Date of filing	

8. Details of inputs

Serial number.	HSN.	Description.	Unit. (UQC)	Opening balance.	Quantity procured.	Value of the quantity procured (Rs.).	Quantity consumed.	Closing balance.	Waste generated.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

9. Details of production

Brand name.	Machine registration number.	Packing type.	Quantity in grams in each package.	HSN.	Description of the product.	Number of packages packed.	MRP per package packed. (Rs.)	Total value (in MRP) of the packages packed by machine. (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9) (7x8)
Total								

10. Power consumption

Sr. No.	Meter / DG set no.	Initial meter reading on first day of the month.	Final meter reading on the last day of the month.	Consumption (KWH).
(1)	(2)	(3)	(4)	(5)
(A) Electricity meter reading				
(B) DG set meter reading				
(C) Solar power having battery				
(D) Others				

11. Details of grid integrated solar power

Sr. No.	Initial meter reading on first day of the month.	Final meter reading on the last day of the month.	Generation/Export / Import /Consumption (KWH).
(1)	(2)	(3)	(4)
(A) Solar meter reading (Generation)			
(B) Power meter reading (Import of electricity)			
(C) Power meter reading (Export of electricity)			
(D) Net consumption [A+B-C]			

12. Verification

I hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory

Name

Designation / Status

Place

Date

Instruction to Form GST SRM-II

1. Terms used:

- (i) GSTIN: Goods and Services Tax Identification Number
- (ii) HSN: Harmonized System of Nomenclature
- (iii) MRP: Maximum Retail Price
- (iv) KWH: Kilo Watt Hour
- (v) DG set: Diesel Generator set used for power generation (vi) Packing type: Pouch, Zipper etc.

2. Table 8: Details of inputs used for manufacturing the goods specified in Schedule appended with the notification, have to be provided. Column wise details of the information to be provided are given in the table below:

Column no.	Description
(1).	
(2).	HSN at minimum 4 digit level of the inputs used for manufacturing to be reported.
(3).	Description of the goods as per HSN to be provided.
(4).	Unit of measurement of the goods to be selected from the drop down.
(5).	Quantity available in the beginning of the month to be reported for the first time. From next month onwards, the information will be auto-populated from the closing balance of the previous month.
(6).	Quantity procured during the month have to be reported.
(7).	Value of the quantity procured have to be provided.

(8).	Quantity consumed have to be reported.
(9).	Closing balance should be the sum of quantity reported in col. 5 & 6 reduced by quantity reported in col. 8 (5+6-8)
(10).	Waste generated, if any to be reported.

3. Table 9: Details of the products manufactured to be reported brand wise, machine wise and package wise. Column wise details of the information to be provided is given in the table below:

Column no.	Description
1.	Brand reported in table 9 of Form GST SRM-I to be selected from drop down for reporting production during the tax period.
2.	Registration number of the machine assigned by System to be reported.
3.	Packing type viz. pouch, zipper etc. manufactured during the tax period to be reported.
4.	Description of the packing (Quantity in grams in each pack) to be reported.
5.	HSN, at 8 digit level, of the goods manufactured during the tax period to be reported.
6.	Description of the product manufactured during the tax period to be reported.
7.	Number of packages packed during the tax period to be reported.
8.	Maximum Retail Price (MRP) in Rs. per package packed to be reported.
9.	Total value in MRP of the packages packed during the tax period will be computed by System based on the information provided in col. 6&7.

4. Table 10: Power consumption during the month to be reported. Initial reading of the electricity meter in the beginning of the month to be reported for the first month. From the next month onwards, the final reading reported at the end of previous month will become initial reading of the month. Reading of DG set used, if any should also be reported separately. For reporting the reading of more than one electricity meter or DG set, separate rows to be used. Also, electricity meter

reading is to be given of the main meter of the manufacturing unit in case separate meter for machines is not available. Solar power mentioned at PART C pertains to only that generated through batteries not integrated with the grid.

5. Table 11. Here, details of the power consumed from solar power integrated with the grid is to be reported.

FORM GST SRM-III
Certificate of Chartered Engineer

1. GSTIN -
2. Details of the machines for which certificate has been issued -

Sr. no.	Make , if available.	Model no., if available	Name of manufacturer.	Machine no.	Registration no. assigned by System (in cases where the amendment in specification of the machines in Table 6A to be done).	Date of purchase, if available.	No. of tracks.	Weight of packages which can be packed on the machine (in grams).	Packing capacity of each track (No. of packages packed for a particular weight of package).	Total packing capacity of the machine for a specific weight of package to be packed.	Electricity consumption capacity of the machine per hour (KWH).	Remarks if any.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11) (8x10)	(12)	(13)

This is to certify that I have examined --- (no.) machines and the above details are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature

Name –

Registration number –

Address –

Mobile no. – Date:

Place:

[F.No.CBIC-20001/7/2023-GST]

(Raghavendra Pal Singh)

Director

3. NOTIFICATION NO. 03/2024- Central Tax

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUBSECTION (ii)]

GOVERNMENT OF INDIA MINISTRY OF FINANCE (DEPARTMENT OF REVENUE) CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION

No. 03/2024- Central Tax

New Delhi, dated the 5th January, 2024

S.O.....(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby rescinds the notification of the Government of India in the Ministry of Finance, Department of Revenue, number 30/2023-CT, dated the 31st July, 2023 published vide number S.O. 3424(E), dated the 31st July, 2023, except as respects things done or omitted to be done before such rescission.

2. This notification shall come into force from 1st day of January, 2024.

[F.No.CBIC-20001/7/2023-GST]

(Raghavendra Pal Singh) Director

4. NOTIFICATION NO. 02/2024 – CENTRAL TAX

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,
SUBSECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION
NO. 02/2024 – CENTRAL TAX

New Delhi, the 5th January, 2024

G.S.R...(E).- In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: —

1. Short title and commencement. -(1) These rules may be called the Central Goods and Services Tax (Amendment) Rules, 2024.

(2) They shall come into force on the 31st day of December, 2023.

2. In the Central Goods and Services Tax Rules, 2017, in rule 80,—

(a) after sub-rule (1A), the following sub-rule shall be inserted, namely:-

“(1B) Notwithstanding anything contained in sub-rule (1), for the financial year 2022-2023, the said annual return shall be furnished on or before the tenth day of January, 2024 for the registered persons whose principal place of business is in the districts of Chennai,

Tiruvallur, Chengalpattu, Kancheepuram, Tirunelveli, Tenkasi, Kanyakumari, Thoothukudi and Virudhunagar in the state of Tamil Nadu.”;

(b) after sub-rule (3A), the following sub-rule shall be inserted, namely:-

“(3B) Notwithstanding anything contained in sub-rule (3), for the financial year 2022-2023, the said self-certified reconciliation statement shall be furnished along with the said annual return on or before the tenth day of January, 2024 for the registered persons whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu, Kancheepuram, Tirunelveli, Tenkasi, Kanyakumari, Thoothukudi and Virudhunagar in the state of Tamil Nadu.”;

[F. No. CBIC-20006/1/2024-GST]

(Raghavendra Pal Singh)

Director

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R. 610(E), dated the 19th June, 2017 and were last amended vide notification No. 52/2023 - Central Tax, dated the 26th October, 2023 vide number G.S.R. 798(E), dated the 26th October, 2023.

5. NOTIFICATION No. 01/2024 – CENTRAL TAX

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION
No. 01/2024 – CENTRAL TAX

New Delhi, the 5th January, 2024

G.S.R...(E).— In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby extends the due date for furnishing the return in FORM GSTR-3B for the month of November, 2023 till the tenth day of January, 2024, for the registered persons whose principal place of business is in the districts of Tirunelveli, Tenkasi, Kanyakumari, Thoothukudi and Virudhunagar in the state of Tamil Nadu and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017.

2. This notification shall come into force with effect from 20th day of December, 2023.

[F. No. CBIC-20006/1/2024-GST]

(Raghavendra Pal Singh)
Director

(II) CGST RATE NOTIFICATION

1. Notification No. 01/2024-Central Tax (Rate)

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,
SUBSECTION (i)]

GOVERNMENT OF INDIA MINISTRY OF FINANCE (Department of Revenue)

Notification No. 01/2024-Central Tax (Rate)

New Delhi, the 3rd January, 2024

G.S.R.(E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the

28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R.

673(E), dated the 28th June, 2017, namely:-

In the said notification, in Schedule I – 2.5%, -

- (i) against S. No. 165, in column (2), for the entry, the entry “2711 12 00, 2711 13 00, 2711 19 10” shall be substituted;

(ii) against S. No. 165A, in column (2), for the entry, the entry “2711 12 00, 2711 13 00, 2711 19 10” shall be substituted;

2. This notification shall come into force with effect from the 4th day of January, 2024.

[F. No. 190354/223/2023-TRU]

(Nitish Karnatak)

Under Secretary

Note: - The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 673(E), dated the 28th June, 2017 and was last amended by notification No. 17/2023 – Central Tax (Rate), dated the 19th October, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 774(E), dated the 19th October, 2023.

(III) IGST RATE NOTIFICATION

1. Notification No. 01/2024-Integrated Tax (Rate)

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,
SUBSECTION (i)]

GOVERNMENT OF INDIA MINISTRY OF FINANCE (Department of Revenue)

Notification No. 01/2024-Integrated Tax (Rate)

New Delhi, the 3rd January, 2024

G.S.R.(E).- In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.1/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 666(E), dated the 28th June, 2017, namely:- In the said notification, in Schedule I – 2.5%, -

- (i) against S. No. 165, in column (2), for the entry, the entry “2711 12 00, 2711 13 00, 2711 19 10” shall be substituted;
- (ii) against S. No. 165A, in column (2), for the entry, the entry “2711 12 00, 2711 13 00, 2711 19 10” shall be substituted;

2. This notification shall come into force with effect from the 4th day of January, 2024.

[F. No. 190354/223/2023-TRU]

(Nitish Karnatak)

Under Secretary

Note: - The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 673(E), dated the 28th June, 2017 and was last amended by notification No. 20/2023 – Central Tax (Rate), dated the 19th October, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 775(E), dated the 19th October, 2023.

(IV) ADVANCE RULING

1. GST Not Exempt on services for Loading and Unloading of Imported Pulses

Case Name : In re Sona Ship Management Pvt Ltd (AAAR West Bengal)

Appeal Number : Appeal Case No. 05/WBAAAR/APPEAL/2023

Date of Judgement/Order : 24/01/2024

Related Assessment Year :

Courts : AAAR (502) AAR West Bangal (232) Advance Rulings (3527)

Maa Jhandewali Traders Vs Principal Commissioner of Goods And Service Tax North Delhi (Delhi High Court)

In a significant judgment, the Delhi High Court addressed the petition filed by Maa Jhandewali Traders against the cancellation of their GST registration by the Principal Commissioner of Goods and Service Tax North Delhi. The court's decision, rendered on the backdrop of procedural lapses and the need for due process, has implications for GST compliance and enforcement practices.

Background of the Dispute: The contention arose from the GST registration cancellation order dated 21.07.2023, based on allegations of mis-statement or suppression of facts by Maa Jhandewali Traders. The petitioner challenged the show cause notice's lack of specifics regarding the alleged fraud, leading to the impugned cancellation order.

Procedural Aspects: The Delhi High Court identified procedural irregularities in the issuance and content of the show cause notice, notably the absence of detailed allegations and the non-disclosure of the issuing officer's name or designation. Despite the respondent's claim that detailed reasons were available on the GST portal, the petitioner contested this, stating no further information was provided beyond the initial notice.

Court's Decision: The Court found merit in the petitioner's arguments, recognizing the need for a detailed and specific show cause notice to enable an adequate response. However, given that the petitioner had engaged with the process by filing a preliminary reply and an application for revocation, the Court decided against outright dismissal of the show cause notice. Instead, it set aside the cancellation order, granting the petitioner one week to submit a detailed response and directing the authority to re-adjudicate the matter within 30 days, with provisions for a personal hearing and potential re-inspection of the premises.

Conclusion: This judgment underscores the judiciary's role in upholding procedural fairness and the principle of natural justice in administrative actions, including GST registration cancellations. By setting aside the cancellation order and allowing for a more comprehensive response process, the Delhi High Court has reaffirmed the importance of specificity in show cause notices and the right to a fair hearing. The case serves as a reminder for both tax authorities and taxpayers of the critical balance between enforcement and adherence to due process.

2. No ITC on construction expenses for immovable property, regardless of capitalization in books

Case Name : Assistant Commissioner, Shibpur Division, CGST & CX Vs. Mindrill Systems and Solutions Private Limited (GST AAAR West Bengal)

Appeal Number : Appeal Case No. 04/WBAAAR/APPEAL/2023

Date of Judgement/Order : 24/01/2024

Related Assessment Year :

Courts : AAAR (502) AAR West Bengal (232) Advance Rulings (3527)

Assistant Commissioner, Shibpur Division, CGST & CX Vs. Mindrill Systems and Solutions Private Limited (GST AAAR West Bengal)

The case of Assistant Commissioner, Shibpur Division, CGST & CX Vs. Mindrill Systems and Solutions Private Limited (GST AAAR West Bengal) has raised significant questions regarding the eligibility to claim and utilize the Input Tax Credit (ITC) against inward supply of inputs/input services used for the construction of a warehouse, which is then rented out. This article delves into the detailed analysis of the appellate authority's ruling, its implications for businesses, and the broader context of GST law concerning the construction and leasing sectors.

The appeal was filed by the Assistant Commissioner against the ruling passed by the West Bengal Advance Ruling Authority (WBAAR) regarding Mindrill Systems and Solutions Private Limited's claim of ITC on construction expenses of a warehouse leased to Zomato Hyperpure Private Limited. The core issue revolves around whether ITC on inward supplies used for construction, whether capitalized or not, can be utilized to offset tax liabilities on outward supplies of renting services.

The WBAAR's original ruling highlighted two scenarios: ITC claims on construction expenses that are capitalized in the books and those that are not. It restricted ITC for capitalized construction expenses while allowing it for non-capitalized expenses, drawing on the stipulations of section 17(5)(d) of the GST Act, which bars ITC on goods or services used for construction of immovable property on one's own account.

Mindrill Systems and Solutions contended that the restriction should not apply as the constructed warehouse does not constitute immovable property in the strict sense and that their case is akin to scenarios where ITC has been allowed, such as in the Safari Retreats case by the Orissa High Court.

The Authority for Appellate Advance Ruling (AAAR) ultimately modified the WBAAR's ruling, emphasizing that the law unequivocally blocks ITC on construction expenses for immovable property, regardless of capitalization in the books. This decision underscores the stringent interpretation of GST laws regarding ITC eligibility on construction costs, signaling a restrictive stance on leveraging ITC for reducing tax liabilities from rental income.

Read AAR Also: **[Denial of ITC on construction of warehouse capitalised in books of accounts](#)**

(V) JUDGEMENTS

1. Delhi HC Sets Aside Order Cancelling GST Registration allows detailed response to SCN

Case Name : Maa Jhandewali Traders Vs Principal Commissioner of Goods And Service Tax North Delhi (Delhi High Court)

Appeal Number : W.P.(C) 1131/2024

Date of Judgement/Order : 25/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Delhi High Court (3007)

Maa Jhandewali Traders Vs Principal Commissioner of Goods And Service Tax North Delhi (Delhi High Court)

In a significant judgment, the Delhi High Court addressed the petition filed by Maa Jhandewali Traders against the cancellation of their GST registration by the Principal Commissioner of Goods and Service Tax North Delhi. The court's decision, rendered on the backdrop of procedural lapses and the need for due process, has implications for GST compliance and enforcement practices.

Background of the Dispute: The contention arose from the GST registration cancellation order dated 21.07.2023, based on allegations of mis-statement or suppression of facts by Maa Jhandewali Traders. The petitioner challenged the show cause notice's lack of specifics regarding the alleged fraud, leading to the impugned cancellation order.

Procedural Aspects: The Delhi High Court identified procedural irregularities in the issuance and content of the show cause notice, notably the absence of detailed allegations and the non-disclosure of the issuing officer's name or designation. Despite the respondent's claim that detailed reasons were available on the GST portal, the petitioner contested this, stating no further information was provided beyond the initial notice.

Court's Decision: The Court found merit in the petitioner's arguments, recognizing the need for a detailed and specific show cause notice to enable an adequate response. However, given that the petitioner had engaged with the process by filing a preliminary reply and an application for revocation, the Court decided against outright dismissal of the show cause notice. Instead, it set aside the cancellation order, granting the petitioner one week to submit a detailed response and directing the authority to re-adjudicate the matter within 30 days, with provisions for a personal hearing and potential re-inspection of the premises.

Conclusion: This judgment underscores the judiciary's role in upholding procedural fairness and the principle of natural justice in administrative actions, including GST registration cancellations. By setting aside the cancellation order and allowing for a more comprehensive response process, the Delhi High Court has reaffirmed the importance of specificity in show cause notices and the right to a fair hearing. The case serves as a reminder for both tax authorities and taxpayers of the critical balance between enforcement and adherence to due process.

2. During GST Audit Proper Officer may initiate action under Section 73 or 74 of CGST Act

Case Name : ABT Limited Vs Additional Commissioner of GST & Central Excise (Madras High Court)

Appeal Number : Writ Petition No. 1756 of 2024

Date of Judgement/Order : 30/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Madras High Court (1449)

ABT Limited Vs Additional Commissioner of GST & Central Excise (Madras High Court)

Introduction: In a significant judgment dated January 30, 2024, the Hon'ble Madras High Court dealt with the case of *M/s. ABT Ltd. v. The Additional Commissioner of GST and Central Excise [Writ Petition No. 1756 of 2024 dated January 30, 2024]*, focusing on the procedural and legal facets of GST audits under Section 65 of the Central Goods and Services Tax Act, 2017 ("the CGST Act"). This case highlights the complexities surrounding tax audits, the initiation of actions under Sections 73 or 74 of the CGST Act, and the judicial oversight on such matters.

The Hon'ble Madras High Court in this case of dismissed the writ petition and held that during the conduct of GST Audit under Section 65 of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**"), if it indicates that tax was not paid or short paid or that Input Tax Credit ("**ITC**") was wrongly availed or utilized, the proper officer may initiate the action under Section 73 or 74 of the CGST Act under Section 65(7) of the CGST Act.

Facts:

M/s. ABT Ltd. ("**the Petitioner**") was a public limited company engaged in the business of supplying light vehicles, their parts, and also the servicing of such vehicles. The Petitioner was a

registered person under GST laws in respect of multiple places of business. The books of account of the Petitioner for the financial years 2017-2018 to 2020-2021 were audited by an audit group by issuing notice in Form GST ADT-01 under Section 65 of the CGST Act. Pursuant to such audit, a draft audit report containing audit observations was issued. This was followed by a revised draft audit report and eventually the issuance of an audit report in Form GST ADT-02 on September 07, 2023. Thereafter, a show cause notice dated September 13, 2023 (**"the Impugned SCN"**) was issued under Section 73 of the CGST Act in respect of about 11 audit observations and a separate show cause notice under Section 74 of the CGST Act on December 14, 2023 (**"the Impugned SCN"**) in respect of about 5 audit observations was issued.

The Petitioner challenged the Impugned SCN on about three grounds:

1. The Audit Report did not record findings of fraud, willful-misstatement or suppression of fact in respect of any of the observations made therein and in the absence of such findings in the audit report, the proper officer does not have the jurisdiction to proceed under Section 74 of the CGST Act.
2. Intimation in Form GST DRC-01A was not issued to the Petitioner and Rule 142(1) of the Central Goods and Services Tax Rules, 2017 (**"the CGST Rules"**) were amended by replacing the word 'shall' with 'may',
3. The Impugned SCN was related to a particular unit of the Petitioner and therefore, expenditure relating to only such unit should have been taken into consideration. Thus, expenses were taken from the consolidated balance sheet was arbitrary.

Issue:

Whether the Proper Officer can initiate action under section 73 or 74 of the CGST Act after issue of Audit Report?

Held:

The Hon'ble Madras High Court ***Writ Petition No. 1756 of 2024*** in held as under:

- The Petitioner contended that the audit report should also contain findings of fraud or wilful-misstatement or suppression of facts. However, there is nothing in the language of Section 65 to indicate that the audit report should contain such findings. On examining the audit report, undoubtedly, it indicates that tax was not paid or short paid or that ITC was wrongly availed or utilised. The Respondent have an option to initiate action under sub-section (7) of Section 65 of the CGST Act prescribes that *"Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under Section 73 or Section 74."* Thus, the obligation imposed by the Respondents with regard to the content of the audit report appears to be satisfied.
- Rule 142(1) of the CGST Rules was amended from October 15, 2020, the Impugned SCN in Form GST DRC-01A was issued on December 14, 2023, which is subsequent to the date of amendment therefore, even if the amendment is prospective, the amendment would apply with regard to the Impugned SCN.

- The Impugned SCN was on the basis that expenses were taken from the consolidated balance sheet, doesn't justify interference with the Impugned SCN under Article 226 of the Constitution of India. Hence, the writ petition was dismissed.

Our Comments:

Section 65 of the CGST Act deals with GST Audit by a tax authority, whereby sub-section (7) of Section 65 of the CGST Act indicates that the audit conducted under sub-section (1) of Section 65 of the CGST Act should result in the detection of tax not paid or short paid or erroneously refunded, or that ITC was wrongly availed or utilised, the proper officer may initiate action under Section 73 or 74 of the CGST Act. Thus, the relevant provision indicates that the proper officer has the option to take action against the assessee if on examining the audit report, undoubtedly, it indicates that tax was not paid or short paid or that ITC was wrongly availed or utilised.

Rule 142(1A) of the CGST Rules has been prospectively amended vide [Notification No.79/2020 – Central Tax dated October 15, 2020](#), and will be applicable to show cause notice subsequent to the date of amendment.

3. Anticipatory Bail can be granted to accused who acted on instructions of main accused

Case Name : Directorate General of Gst Intelligence Vs Jitender Kumar (Delhi High Court)

Appeal Number : CRL.M.C. 4528/2023

Date of Judgement/Order : 19/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Delhi High Court (3007)

Directorate General of Gst Intelligence Vs Jitender Kumar (Delhi High Court)

Introduction: In a pivotal judgment by the Hon'ble Delhi High Court, the grant of anticipatory bail was sustained for an individual implicated in a GST evasion case, underlining the legal principle that anticipatory bail can be granted to an accused acting on the instructions of the main accused.

This ruling was delivered in the case of *Directorate General of GST Intelligence v. Jitendra Kumar [Criminal Miscellaneous Case No. 4528 of 2023 and others. dated January 19, 2024]*, where the court delved into the nuances of anticipatory bail within the context of GST evasion, marking a significant development in the legal landscape of tax-related offences.

The Hon'ble Delhi High Court in this case held the Respondent was not the main accused, he was acting on the instructions of the main accused. Further, the Petitioner's antecedents were clear and were co-operating.

Therefore, the grant of anticipatory bail was sustained.

Facts:

The Director General of GST Intelligence (**“the Petitioner”**) and the Directorate of Revenue Intelligence (**“the DRI”**) intercepted 21 containers carrying smoking mixtures on October 03, 2022. The samples were sent to the Central Revenues Control Laboratory (**“the CRCL”**), wherein it was revealed that the aforesaid smoking mixture was a spurious product and not fit for human consumption. Investigation was started and summons were issued to the M/s. Harsha International (**“the Exporter”**). However, the proprietor of Exporter, Jitender Kumar (**“the Respondent”**), did not comply with the aforesaid summons.

During the search of the registered premises of the Exporter, it was revealed that no business activity relating to export was being carried out and a kirana store was being operated by the father of the Respondent, from the registered place of business. It was also found that M/s Radiant Traders, the manufacturers of smoking mixtures, had supplied the smoking mixture to the Exporter. However, no business activity was being conducted on the registered premises of M/s Radiant Traders and no goods or plant or machinery were found at their premises.

Subsequently, the statement of the proprietor of M/s. Radiant Traders, Manish Goyal, was recorded under section 70 of the Central Goods and Services Tax Act, 2017 (**“the CGST Act”**), wherein he stated that no smoking mixtures have been supplied by his firm to the Exporter. The co-accused Manish Goyal was arrested on November 25, 2022 under the allegations of having committed offences under Section 132(1)(b) and (c) of the CGST Act and preferred a bail application before the Additional Sessions Judge which was allowed vide Order dated December

21, 2022 and was released on regular bail. The Petitioner preferred an anticipatory bail, which was granted vide Order dated February 25, 2023.

The Petitioners moved an application seeking cancellation of the aforesaid anticipatory bail before Sessions Court on the grounds of violation of the conditions mentioned therein, which was dismissed vide Order dated April 24, 2023 (**"the Impugned Order"**).

Hence, aggrieved by the Impugned Order, the present petition was filed by the Petitioners.

Issue:

Whether Anticipatory Bail can be granted to the accused who acted on the instructions of the main accused?

Held:

The Hon'ble Delhi High Court ***Criminal Miscellaneous Case No. 4528 of 2023 and others.*** in held as under:

- Observed that, the Respondent was not the main player involved in the GST fraud and was acting on instructions from the main accused Chirag Goel and Chaman Goel. It is the case of the Petitioner itself that out of the receipt of GST refund of INR 198 crores by the Exporter, INR 195 crores were transferred to M/s. Radiant Traders. Even otherwise, the Respondent has clean antecedents has been cooperating in the investigation and has given his statement under Section 70 of the CGST Act.
- Relied on the case of ***State of Gujarat v. Choodamani Parmeshwaran Iyer (SLP (Crl.) No. 4212-4213 of 2019)*** where the Supreme Court held that if any person is summoned under

section 69 of the CGST Act for the purpose of recording his statement, provisions of Section 438 of the Criminal Procedure Code, 1908 cannot be invoked. Hence, the order in Choodamani Parmeshwaran Iyer (supra) was delivered on July 17, 2023, which is subsequent to the order dated February 2, 2023 passed by the learned ASJ granting anticipatory bail to Jitender Kumar. Therefore, the case of Choodamani Parmeshwaran Iyer (supra) cannot have retrospective operation. Thus, the Respondent was granted anticipatory bail.

- Held that, if the Respondent does not appear pursuant to the summons issued by the Petitioner, his anticipatory bail would be liable to be cancelled. However, the Petitioner shall give notice of at least 48 hours to appear pursuant to the issuance of summons.

Conclusion: The Delhi High Court's decision in Directorate General of GST Intelligence v. Jitender Kumar sets a precedent on the grant of anticipatory bail in the context of GST evasion cases. By distinguishing between the roles of individuals involved in the offence and emphasizing the importance of cooperation with the investigation, the court has provided a nuanced approach to anticipatory bail. This judgment not only aids in understanding the legal thresholds for such bail but also ensures that the principles of justice and fairness are upheld in the prosecution of tax-related offences.

4. GST: No Substantive Changes Permitted in Orders by error rectification under Section 161

Case Name : Sajal Kumar Das Vs State of West Bengal (Calcutta High Court)

Appeal Number : M.A.T. 2475 of 2023

Date of Judgement/Order : 09/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Calcutta High Court (755)

Sajal Kumar Das Vs State of West Bengal (Calcutta High Court)

Introduction: In a landmark judgment, the Hon'ble Calcutta High Court in the case of Sajal Kumar Das v. State of West Bengal [M.A.T. No. 2475 of 2023 dated January 09, 2024], addressed the confines of Section 161 of the Central Goods and Services Tax Act, 2017 ("the CGST Act"), concerning the rectification of errors. The court meticulously dissected the legal parameters governing the authority's power to amend or rectify orders, setting a precedent on the limitations of such rectifications, especially in the context of substantive changes to the original orders.

The Hon'ble Calcutta High Court in above case allowed the writ petition and set aside the Order thereby holding that substantive changes cannot be introduced in the Order by way of rectification of errors under Section 161 of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**).

Facts:

Sajal Kumar Das (**"the Appellant"**) filed a writ petition against the order dated August 23, 2023 (**"the Impugned Order"**), passed by the Revenue Department Appellate Authority (**"the**

Respondent”) with respect to the powers enumerated under Section 161 of the CGST Act for rectification of errors. The Appellant contended that the Respondent Original Authority cannot make substantive changes by way of filing rectification application. However, the Hon’ble High Court denied to pass any interim orders.

Aggrieved, the Appellant filed an intra-court appeal before the Hon’ble Calcutta High Court.

Issue:

Whether substantive changes can be introduced in the Order under Section 161 of the CGST Act?

Held:

The Hon’ble Calcutta High Court in the case of ***M.A.T. No. 2475 of 2023*** held as under:

- Noted that, as per Section 161 of the CGST Act the Respondent Authority should be able to point out the error which is apparent on the face of record, for rectification. However, the Respondent failed to point out the error in the Impugned Order which is apparent on the face of record.
- Opined that, the order suffers illegality as the Impugned Order has essentially been
- rewritten which is beyond the powers exercised under Section 161 of the CGST Act.

Held that, the Impugned Order is quashed. Hence, the writ petition is allowed.

Conclusion: The ruling by the Hon’ble Calcutta High Court in the case of Sajal Kumar Das v. State of West Bengal serves as a vital clarification on the legal landscape concerning the rectification of errors under the CGST Act. It reinforces the principle that substantive changes to orders cannot

be justified as rectifications of apparent errors, preserving the sanctity and finality of the original orders. This judgment underscores the judiciary's role in delineating the boundaries of statutory provisions, ensuring that the powers conferred by the legislation are exercised within the intended legal framework.

Relevant Provision:

Section 161 of the CGST Act:

“161. Rectification of errors apparent on the face of record:-

Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.”

5. **Kerala HC Upholds GST Registration Cancellation for Oleena Mahila Samajam**

Case Name : Oleena Mahila Samajam Vs State Tax Officer (Kerala High Court)

Appeal Number : W.P.(C) No. 900 of 2024

Date of Judgement/Order : 17/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Kerala High Court (761)

Oleena Mahila Samajam Vs State Tax Officer (Kerala High Court)

In a recent judgment, the Kerala High Court has upheld the decision to cancel the GST registration of Oleena Mahila Samajam, a voluntary organization engaged in social work. The decision, rendered in 2024, came after the petitioner failed to comply with statutory requirements under the CGST/SGST Act, 2017, specifically pertaining to the filing of returns.

Background of the Case: The case stemmed from the cancellation of Oleena Mahila Samajam's GST registration due to the non-filing of returns for a continuous period of six months. Despite receiving a notice under Rule 22(1) and Sub-rule (2A) of Rule 21A, which required a response by May 4, 2022, the petitioner did not submit the required returns. Consequently, the registration was cancelled as per Exhibit P-3 order.

Contentions and Court's Decision: The counsel for Oleena Mahila Samajam argued for leniency, citing an oversight by the petitioner's accountant and the organization's non-profit nature as grounds for reconsideration. However, the Kerala High Court emphasized the importance of adhering to statutory provisions, stating that the court would not extend filing deadlines in violation of such regulations.

Acknowledging the petitioner's failure to file returns within the stipulated period and to respond adequately to the notice served, the court found no basis for leniency. The judgment pointed out

that the petitioner had the option to appeal the cancellation order but failed to do so. Moreover, the decision to approach the court was made significantly later, in 2024, further diminishing the petitioner's case for indulgence.

Conclusion: The Kerala High Court's decision to dismiss the writ petition filed by Oleena Mahila Samajam underscores the judiciary's stance on the strict adherence to statutory deadlines for GST compliance. This ruling serves as a cautionary tale for all GST registrants about the critical importance of timely return filing and the potential consequences of non-compliance. The court's refusal to grant relief against the cancellation order reinforces the principle that statutory obligations cannot be overlooked, regardless of an entity's charitable status or intentions.

6. Kerala HC Directs Avail Alternate Remedies: KGST Act Assessment

Case Name : Ochanthuruth Service Cooperative Bank Ltd. Vs State Tax Office (Kerala High Court)

Appeal Number : WP(C) No. 3019 of 2024

Date of Judgement/Order : 25/01/2025

Related Assessment Year :

Courts : All High Courts (12514) Kerala High Court (761)

Ochanthuruth Service Cooperative Bank Ltd. Vs State Tax Office (Kerala High Court)

Introduction: In a recent case, Ochanthuruth Service Cooperative Bank Ltd. challenged an assessment order under the Kerala State Goods and Services Tax (KGST) Act, 2017, before the Kerala High Court. The court's directive regarding the availment of alternate remedies sheds light on the procedural aspect of tax disputes.

Detailed Analysis: The petitioner, Ochanthuruth Service Cooperative Bank Ltd., contested Ext.P1, an assessment order issued under the KGST Act, before the Kerala High Court. The government pleader argued that show cause notices were issued to the petitioner prior to the completion of assessment, but the petitioner failed to respond or appear before the officer.

The court, after hearing arguments from both sides, concluded that the petitioner had not presented sufficient grounds for interference with Ext.P1 under Article 226 of the Constitution of India. Instead, the court directed the petitioner to avail appellate remedies within the stipulated time frame.

Given that the time limit for filing an appeal had not yet expired, the court instructed the petitioner to file an appeal along with a stay petition by January 31, 2024. Furthermore, the court

ordered that any recovery proceedings based on Ext.P1 would be suspended until the appellate authority decides on the stay application.

This decision highlights the importance of adhering to procedural requirements and exhausting alternate legal remedies available to taxpayers. By directing the petitioner to pursue appellate avenues, the court ensures fairness and adherence to legal procedures in resolving tax disputes under the KGST Act.

Conclusion: The Kerala High Court's directive to Ochanthuruth Service Cooperative Bank Ltd. to avail alternate remedies against the assessment order under the KGST Act underscores the significance of procedural compliance and the pursuit of legal recourse in tax matters. This decision reaffirms the principle of due process and provides clarity on the course of action for taxpayers facing assessment disputes.

7. Kerala HC Dismisses Writ on GST Transitional Credit, Cites Appeal Remedy

Case Name : Metalex Agencies Vs State Tax Officer (Kerala High Court)

Appeal Number : WP(C) No. 2205 of 2024

Date of Judgement/Order : 18/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Kerala High Court (761)

Metalex Agencies Vs State Tax Officer (Kerala High Court)

Introduction: Metalex Agencies brought a writ petition before the Kerala High Court, contesting the assessment order issued under the KSGST/CGST Act, 2017 (Exhibit P-7). The petitioner's claim for transitional credit was scrutinized, leading to discrepancies and subsequent disallowance of certain credits. The court's decision on the availability of statutory remedies under the GST Act is pivotal in understanding the legal recourse available to taxpayers.

Detailed Analysis:

- 1. Petitioner's Claim:** Metalex Agencies, a registered dealer under the KSGST Act, filed returns for the financial year 2017-18, including a claim for transitional credit. However, discrepancies were noted in the claimed transitional credit during the examination of returns. This discrepancy led to the issuance of a Show Cause Notice, highlighting the alleged violations of Section 140 read with Rule 117 of the CGST Act.
- 2. Assessment Proceedings:** The assessing authority examined the documents submitted by the petitioner and issued an order disallowing a portion of the transitional credit claimed. The petitioner was further levied with interest and penalty under the Act.

3. **Writ Jurisdiction Invocation:** The petitioner approached the High Court invoking writ jurisdiction under Article 226 of the Constitution, bypassing the statutory appeal provision available under Section 107 of the CGST/KSGST Act, 2017. The petitioner argued that the appeal process might be futile, especially concerning the excise duty component allegedly paid by the petitioner.

4. **Court's Decision:** The High Court dismissed the writ petition, emphasizing the availability of the statutory appeal remedy. The court rejected the contention that the appeal process would be futile, as the appellate authority would thoroughly examine all documents and evidence submitted by the petitioner. The court asserted that the appeal should be decided on its own merit if pursued by the petitioner.

Conclusion: The Kerala High Court's dismissal of the writ petition in the case of *Metalex Agencies versus State Tax Officer* underscores the significance of statutory remedies available under the GST Act. Despite the petitioner's argument of potential futility in the appeal process, the court reaffirmed the importance of exhausting statutory remedies before seeking recourse through writ jurisdiction. This decision reaffirms the legal framework governing tax disputes and highlights the importance of adherence to statutory procedures in addressing tax-related grievances.

8. GST SCN issued beyond Period of Limitation u/s 73 of Finance Act: Delhi HC allows Withdrawal of Petition

Case Name : I And S Communique Pvt Ltd Vs Commissioner of CGST (Delhi High Court)

Appeal Number : W.P.(C) 6819/2021 & CM APPL. 21475/2021 & 5109/2024

Date of Judgement/Order : 29/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Delhi High Court (3007)

I And S Communique Pvt Ltd Vs Commissioner of CGST (Delhi High Court)

Introduction: In the case of I And S Communique Pvt Ltd versus Commissioner of CGST, the Delhi High Court addressed the issue of a show cause notice (SCN) issued beyond the period of limitation prescribed under Section 73 of the Finance Act, 1994. The court's decision to allow withdrawal of the petition has significant implications for the petitioner's ability to respond to the notice and invoke relevant legal remedies.

Detailed Analysis:

- 1. Petitioner's Contention:** The petitioner challenged a show cause notice dated April 2021, arguing that it was issued beyond the period of limitation specified under Section 73 of the Finance Act, 1994.
- 2. Preliminary Objection:** The respondents raised a preliminary objection regarding the maintainability of the petition, asserting that the show cause notice was issued under the proviso to Section 73(1), allowing for the application of an extended period of limitation. The respondents suggested that the petitioner should have raised this plea before the Adjudicating Authority.

3. **Withdrawal of Petition:** In light of the objection raised, the petitioner sought leave to withdraw the petition while reserving the right to raise all permissible pleas, including the invocation of the extended period of limitation, before the Adjudicating Authority. The petitioner also requested time to file a reply to the show cause notice.

4. **Court's Decision:** The **High Court allowed the withdrawal of the petition, enabling the petitioner to file a reply to the show cause notice within 30 days.** The Adjudicating Authority was directed to adjudicate the show cause notice, including the question of the invocation of the extended period of limitation, after providing the petitioner with an opportunity for a personal hearing.

5. **Clarification:** The court clarified that its decision to allow withdrawal did not imply any consideration or comment on the merits of the case. All rights and contentions of the parties were reserved, and the time spent in the petition would not count towards the period of limitation prescribed under the Finance Act, 1994.

Conclusion: The Delhi High Court's decision to allow withdrawal of the petition in the case of I And S Communique Pvt Ltd versus Commissioner of CGST underscores the importance of procedural compliance and the availability of legal remedies under tax laws. By reserving the petitioner's right to raise relevant pleas before the Adjudicating Authority, the court ensures fair adjudication of the show cause notice while upholding the principles of natural justice. This case highlights the significance of adherence to statutory provisions and procedural fairness in tax-related disputes.

9. HC directs AO to Share Support Materials for GST Registration Cancellation Notice

Case Name : P.N. Global Traders Vs Goods & Services Tax Network & Ors (Delhi High Court)

Appeal Number : W.P. (C) 1240/2024 & CM APPL. 5206/2024 (Stay)

Date of Judgement/Order : 30/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Delhi High Court (3007)

P.N. Global Traders Vs Goods & Services Tax Network & Ors (Delhi High Court)

Introduction: In the case of P.N. Global Traders versus Goods & Services Tax Network & Others, the Delhi High Court addressed the issue of a Show Cause Notice (SCN) seeking to cancel the petitioner's GST registration. The court's decision to direct the provision of materials supporting the SCN highlights the importance of transparency and procedural fairness in administrative actions.

Detailed Analysis:

- 1. Background of the Case:** N. Global Traders challenged a Show Cause Notice dated January 18, 2024, seeking to cancel its GST registration under Section 29(2)(e) of the Goods and Services Tax (GST) Act. The petitioner argued that the SCN lacked specific reasons for cancellation.
- 2. Petitioner's Submission:** The petitioner contended that the SCN failed to provide adequate reasons for cancellation and lacked essential information such as the name of the officer, place, or time for appearance.

3. **Respondent's Response:** The respondent, represented by learned counsel, produced screen shots of the portal and an inspection report, alleging that the petitioner was not found at the mentioned premises.

4. **Court's Observation:** The court noted deficiencies in the SCN, including the absence of specific reasons and essential information required for the petitioner's response. Recognizing the importance of procedural fairness, the court directed the respondents to provide all material supporting the SCN to the petitioner within one week.

5. **Court's Direction:** Upon receiving the materials, the petitioner was instructed to file a reply within one week. The respondents were directed to adjudicate the SCN within a maximum period of two weeks, ensuring an opportunity for a personal hearing.

6. **Possibility of Fresh Inspection:** The court left open the option for the respondent to conduct a fresh inspection of the premises if necessary, emphasizing the need for a thorough and fair assessment of the situation.

Conclusion: The Delhi High Court's decision in the P.N. Global Traders case underscores the significance of procedural fairness and transparency in administrative actions, particularly in matters involving the cancellation of GST registration. By directing the provision of materials supporting the SCN and ensuring a fair opportunity for the petitioner to respond, the court upholds principles of natural justice. This case serves as a reminder of the courts' role in safeguarding the rights of individuals and ensuring accountability in administrative proceedings.

10. **Mismatch between GSTR-3B & GSTR-2A: HC remanded matter back to AO**

Case Name : Kochi Medicals Vs State Tax Officer (Kerala High court)

Appeal Number : WP(C) No. 1060 of 2024

Date of Judgement/Order : 10/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Kerala High Court (761)

Kochi Medicals Vs State Tax Officer (Kerala High court)

The Kerala High Court recently adjudicated a significant case involving Kochi Medicals and the State Tax Officer, centering on the Goods and Services Tax (GST) regime. This detailed article delves into the case's intricacies, the arguments presented by both sides, the legal framework, and the Court's decision to remit the matter back to the assessing authority.

Background: Kochi Medicals, a registered dealer under the CGST/SGST Act, 2017, found itself embroiled in a dispute over the claim of input tax credit (ITC) for the period from July 2017 to March 2018. The crux of the dispute was a mismatch between the GSTR – 3B filed by the petitioner and the GSTR – 2A, leading to the disallowance of ITC to the extent of the mismatch by the assessing authority.

Legal Arguments: The petitioner's counsel highlighted the initial challenges faced by dealers in adapting to the GST system and argued for leniency based on **Circular No. 183/15/2022-GST dated 27.12.2022**. This circular provided relaxation for the financial years 2017-18 and 2018-19, specifically addressing issues of unreflected supplies in GSTR – 2A due to misreporting by suppliers.

Court's Decision: The Kerala High Court, acknowledging the arguments and the provisions of the circular, set aside the previous orders that had dismissed the petitioner's appeal. The matter was remanded back to the assessing authority to reconsider the petitioner's case in light of the recent circular, with instructions to afford the petitioner a personal hearing for a fresh assessment.

Conclusion: The Kerala High Court's decision in favor of Kochi Medicals underscores the judiciary's recognition of the transitional challenges faced by businesses adapting to the GST framework. This verdict not only provides relief to Kochi Medicals but also sets a precedent for similar cases, emphasizing the importance of considering regulatory relaxations in assessing GST-related disputes. This case exemplifies the Court's role in ensuring that the implementation of tax laws does not unduly penalize compliant businesses navigating the complexities of the GST regime.

11.HC Directs Interest Consideration for Delayed CENVAT Credit Carry Forward

Case Name : Console Shipping Services India Pvt. Ltd. Vs Union of India Through Secretary (Delhi High Court)

Appeal Number : W.P.(C) 6318/2021

Date of Judgement/Order : 31/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Delhi High Court (3007)

Console Shipping Services India Pvt. Ltd. Vs Union of India Through Secretary (Delhi High Court)

Introduction: In the case of Console Shipping Services India Pvt. Ltd. versus Union of India Through Secretary, the Delhi High Court addressed a petition seeking permission to carry forward Central Value Added Tax (CENVAT) credit and interest paid in Electronic Credit Ledger under GST. The judgment provided relief to Console Shipping Services India regarding the demand for interest.

Detailed Analysis:

- 1. Petitioner's Request:** Console Shipping Services India Pvt. Ltd. filed a petition seeking direction from the respondents to allow the carry forward of Rs. 13,94,961/- of CENVAT credit along with Rs. 8,98,763/as interest paid in Electronic Credit Ledger under GST through GST 3B return.
- 2. Granted CENVAT Credit:** During the pendency of the petition, the petitioner was granted CENVAT credit of Rs. 10,36,932, while the input tax credit of the remaining balance amount was rejected.

3. **Remaining Issue:** The only remaining issue pertained to interest on the delay in permitting the carry forward of CENVAT credit on the admitted amount of Rs. 10,36,932/-

4. **Respondents' Submission:** The respondents argued that the carry forward occurred during the transitional period and migration of existing taxpayers under Section 140 of the Central Goods and Services Tax Act, 2017. They stated that there is no automatic provision for interest payment on delayed refunds under Section 56 of the Act. However, they assured that upon application by the petitioner, the Department would consider granting interest as per the law.

5. **Court's Decision:** Instead of requiring the petitioner to file a separate application, the court disposed of the petition with a direction to treat it as a representation regarding the grant of interest on the delayed carry forward of CENVAT credit. The respondents were instructed to pass a speaking order within four weeks, allowing the petitioner to pursue further legal remedies if dissatisfied with the order.

Conclusion: The Delhi High Court's judgment in the case of Console Shipping Services India Pvt. Ltd. versus Union of India Through Secretary provides relief by directing the respondents to consider granting interest on the delayed carry forward of CENVAT credit. This decision highlights the importance of procedural fairness and legal remedies in matters related to GST credit and tax refunds.

12.Allahabad HC upholds penalty for Wrong Representation in Goods Purchase under Sales Tax Act

Case Name : Hindustan Petroleum Corp. Vs Commissioner of Commercial Tax (Allahabad High Court)

Appeal Number : Sales/Trade Tax Revision No. - 137 of 2013

Date of Judgement/Order : 25/01/2024

Related Assessment Year : 2007-08

Courts : All High Courts (12514) Allahabad High Court (670)

Hindustan Petroleum Corp. Vs Commissioner of Commercial Tax (Allahabad High Court)

Introduction: The Allahabad High Court, in the case of Hindustan Petroleum Corp. vs. Commissioner of Commercial Tax, has upheld penalties under the Sales Tax Act. The court found the corporation failed to establish bonafide intention in the misrepresentation of goods purchased, leading to the imposition of penalties. This article provides an in-depth analysis of the judgment and the key legal arguments presented.

Detailed Analysis: The Sales/Trade Tax Revisions (No. 138 of 2013 and No. 137 of 2013) pertain to the Assessment Years 2007-08 and 2004-05. The court heard arguments on various legal questions, including the consideration of mens rea, the interpretation of relevant judgments, and the contention that the goods were covered under the registration certificate.

Hindustan Petroleum Corp., engaged in the business of refining crude oil and marketing petroleum products, faced penalties for the purchase of items like valves, regulator, PP caps, and aluminum seal. The court observed that these items were not listed in the registration certificate, and the corporation failed to prove a bonafide belief that they fell under the category of “container” mentioned in the certificate.

The court referred to its earlier remand order, emphasizing that the assessing authority should decide the matter independently. Despite the opportunity granted, Hindustan Petroleum Corp. did not provide sufficient evidence to support its claim, leading to a finding of fact against the corporation.

The judgment cited relevant legal precedents, including the case of Commissioner of Sales Tax, U.P. vs. M/s Sanjeev Fabrics, to establish the importance of mens rea in penalty proceedings. The court dismissed arguments that the corporation had purchased similar items in previous years without objection, emphasizing the need for a valid bonafide belief.

Conclusion: In conclusion, the Allahabad High Court upheld the penalties imposed on Hindustan Petroleum Corp. for misrepresenting goods purchased under the Sales Tax Act. The detailed analysis of the judgment highlights the key legal aspects considered by the court, emphasizing the corporation's failure to establish a bonafide intention and address the findings of fact against it.

This case serves as a reminder of the importance of accurate representation and adherence to registration certificates in commercial tax matters, shedding light on the legal principles governing penalties under the Sales Tax Act.

Note: The SEO title, meta description, and slug are crafted for search engine optimization purposes, providing a concise and informative summary of the article. The detailed analysis section outlines the key points covered in the article, offering a comprehensive overview of the legal aspects discussed in the judgment.

13.Unutilised IGST Credit Refund: Bombay HC Directs Fair Hearing & Timely Adjudication

Case Name : Openwave India Private Ltd Vs Union of India (Bombay High Court)

Appeal Number : Writ Petition (L) No.1799 of 2024

Date of Judgement/Order : 18/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Bombay High Court (1784)

Openwave India Private Ltd Vs Union of India (Bombay High Court)

In a significant ruling, the High Court, in a case under Article 226 of the Constitution of India, emphasized the fundamental principles of natural justice and timely adjudication in appeals related to tax matters. The case, filed by the petitioner seeking relief against the delayed adjudication of appeals filed before the Joint Commissioner of State Tax Appeals, underscores the importance of fair procedural safeguards and expeditious resolution of legal disputes.

The petitioner, engaged in providing technical consultancy and software development services, had filed applications for refund of unutilized Integrated Goods and Service Tax (IGST) credit and tax paid on exported goods, in accordance with relevant provisions of the Central Goods and Services Tax Act (CGST Act) and the Integrated Goods and Service Tax Act (IGST Act). While some refund claims were sanctioned, others were rejected, leading the petitioner to file appeals before the Appellate Authority, the Joint Commissioner of State Tax Appeals (Respondent No. 4).

The crux of the petitioner's grievance lay in the lack of a fair hearing and the prolonged delay in adjudicating the appeals by the Respondent No. 4. Despite multiple requests for personal hearings and submissions made by the petitioner, the appellate authority failed to provide a satisfactory response or pass reasoned orders in a timely manner.

In its ruling, the High Court emphasized the fundamental principle of natural justice, which necessitates providing parties with a fair opportunity to present their case before a decision is made. The Court noted that the failure to grant a personal hearing to the petitioner amounted to a violation of these principles.

Furthermore, the Court highlighted the importance of timely adjudication, especially in matters concerning the rights of individuals and businesses. Delays in resolving legal disputes not only prejudice the parties involved but also impede the fundamental right to carry on business, as guaranteed under Article 19(1)(g) of the Constitution of India.

In light of these considerations, the High Court issued a series of directives to ensure procedural fairness and expeditious resolution of the appeals. Respondent No. 4 was directed to provide the petitioner with a personal hearing in each of the appeals within six weeks and pass reasoned orders thereafter. This directive aimed to safeguard the petitioner's right to a fair adjudication process and mitigate the adverse effects of prolonged legal proceedings.

The ruling serves as a significant precedent, reaffirming the principles of natural justice and timely adjudication in legal proceedings. It underscores the judiciary's commitment to upholding procedural fairness and ensuring access to justice for all parties involved in legal disputes. Moreover, the ruling underscores the role of the judiciary in safeguarding fundamental rights and promoting the rule of law in the country.

14. Petitioner Entitled to Show Cause Notice Materials: Kerala HC

Case Name : Pooppally Coir Mills Vs State Tax Officer (Kerala High Court)

Appeal Number : WP(C) No. 3266 of 2024

Date of Judgement/Order : 25/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Kerala High Court (761)

Pooppally Coir Mills Vs State Tax Officer (Kerala High Court)

Introduction: Pooppally Coir Mills has filed a petition against the State Tax Officer regarding the issuance of show cause notices (Exts.P3 and P4) alleging the wrongful availment of IGST refund. The petitioner contends that without access to the materials forming the basis of these notices, they cannot adequately respond to the allegations.

Detailed Analysis: The petitioner argues that the show cause notices do not provide sufficient information on the basis for the allegations, particularly referencing information from the Commissioner of Customs. Despite requests, the petitioner has not been provided with the materials or the referenced letter from the Commissioner of Customs.

The Government Pleader asserts that it is the petitioner's responsibility to file proper replies and request necessary documents from the officer. However, the petitioner claims to have already requested certain details (Exts.P5 to P8) without success.

The court acknowledges the importance of the petitioner having access to the materials underlying the show cause notices to formulate a proper response. While directing the petitioner to appear before the officer on the designated date to show cause against the proposals, the court also orders the officer to provide the requested documents within a reasonable time. The petitioner is then granted two weeks to reply to the show cause notices before the matter is adjudicated.

Conclusion: The case highlights the petitioner's entitlement to access materials forming the basis of show cause notices to effectively respond to allegations. The court's directive ensures that the petitioner is afforded a fair opportunity to present their case before the competent officer.

15. Discount on supply directly linked to subsidy forms part of transaction value: Madras HC

Case Name : Supreme Paradise Vs Assistant Commissioner (ST) (Madras High Court)

Appeal Number : W.P. Nos.13424, 13427 and 13435 of 2023

Date of Judgement/Order : 10/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Madras High Court (1449)

Supreme Paradise Vs Assistant Commissioner (ST) (Madras High Court)

Madras High Court held that if a discount offered on a supply is also directly linked to subsidy by a 3rd party, the value of such subsidy will be includible in the “transaction value” of the supply. In other words, a discount linked to the subsidy alone can form part of the “transaction value”.

Facts- The petitioner is engaged in retail sale of mobile phones. The department had issued notices to the petitioner in DRC-01.

Notably, in the impugned orders, it has been concluded that discount on the value of supply can be allowed only in the cases specified in Section 15(3)(a) and (b) of the respective GST enactments. It has been concluded in the impugned orders that the wordings of Section 15(3)(b) of the respective GST enactments clearly state that value of supply shall not include any discount, which is given after the supply has been effected.

Conclusion- If the value of supply is subsidised by a 3rd party, the transaction value of the supply will include the value of such subsidy. Only if the price is subsidised by the Central Government or the State Government, the value of supply will not include such subsidy. If a

discount offered on a supply is also directly linked to subsidy by a 3rd party, the value of such subsidy will be includible in the “transaction value” of the supply.

A discount by itself will not qualify as subsidy. However, a discount offered by a distributor or a supplier or the manufacturer to buyer/recipient simpliciter cannot form part of the “transaction value” unless such a discount is offered on account of the subsidy for such supplies by a 3rd party. In other words, a discount linked to the subsidy alone can form part of the “transaction value”.

16. GST DRC-07 Order for Excess Input Tax Credit Voided; Assessee Denied Hearing

Case Name : Patanjali Ayurved Limited Vs State of Madhya Pradesh (Madhya Pradesh High Court)

Appeal Number : Writ Petition No. 8123 of 2023

Date of Judgement/Order : 22/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Madhya Pradesh HC (169)

Patanjali Ayurved Limited Vs State of Madhya Pradesh (Madhya Pradesh High Court)

In a recent ruling by the Madhya Pradesh High Court, in the case of Patanjali Ayurved Limited Vs State of Madhya Pradesh, the court declared the GST DRC-07 order for excess Input Tax Credit (ITC) void due to the denial of a fair hearing to the assessee. This case highlights the importance of adhering to principles of natural justice in tax adjudication processes.

Background: The petitioner, Patanjali Ayurved Limited, challenged the adjudication order in form GST DRC-07 issued by the Deputy Commissioner of State Tax, Division – I, Indore. The order, dated July 15, 2022, demanded repayment of excess Input Tax Credit amounting to Rs. 78,49,607/- along with interest and penalty under relevant sections of the CGST Act, MPGST Act, and IGST Act. The petitioner contended that the order was passed without considering their submissions and without providing an opportunity for a hearing, violating principles of natural justice.

Legal Analysis: The petitioner argued that Section 74(9) of the CGST Act/MPGST Act mandates the proper officer to consider representations made by the assessee before passing an order

under Section 74. However, in this case, the representation submitted by the petitioner was not considered before issuing the impugned order.

Furthermore, Section 75(4) of the CGST Act/MPGST Act requires granting an opportunity of hearing to the assessee before passing any adverse order. The petitioner emphasized that the absence of a personal hearing in their case violated this statutory provision and principles of natural justice.

Court's Decision: After hearing arguments from both sides, the court held that the denial of a fair hearing amounted to a violation of statutory provisions and principles of natural justice. The court referred to previous judgments supporting the mandatory nature of providing an opportunity for a hearing, especially in cases where an adverse decision is contemplated against the assessee.

The court emphasized that "opportunity of hearing" as mentioned in the statute includes the opportunity for a personal hearing, irrespective of whether the assessee specifically requested it. Therefore, the impugned proceedings were set aside, and the respondents were directed to provide the petitioners with an opportunity for a hearing before a different officer.

Conclusion: The ruling by the Madhya Pradesh High Court underscores the significance of procedural fairness in tax adjudication processes. It reaffirms the principles of natural justice and statutory mandates requiring authorities to consider representations and provide a fair opportunity for a hearing before passing adverse orders against taxpayers.

17.GST: Revenue Order Under Section 73 Set Aside; Assessee Denied Hearing

Case Name : Kabita Rath Vs Chief Commissioner, C.T. & G.S.T., Odisha & Another (Orissa High Court)

Appeal Number : W.P.(C) No.1672 of 2024

Date of Judgement/Order : 30/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Orissa High Court (234)

Kabita Rath Vs Chief Commissioner, C.T. & G.S.T., Odisha & Another (Orissa High Court)

Introduction: Kabita Rath, represented by counsel, contested an ex-parte order passed by Opposite Party No.2 State Tax Officer under Section 73 of the OGST Act in the Orissa High Court. The order, dated 18.11.2023, was challenged due to the absence of any opportunity for personal hearing granted to the petitioner. This article delves into the details of the case, arguments presented by both parties, and the subsequent judgment of the court.

Detailed Analysis:

The petitioner's counsel argued vehemently against the order, emphasizing the lack of a fair hearing, citing precedent cases for support. On the other hand, the Additional Standing Counsel representing the Opposite Parties acknowledged the absence of a hearing and advocated for a remand to provide the petitioner with the requisite opportunity.

The court, without delving into the merits of the case, ruled in favor of the petitioner, quashing the order dated 18.11.2023. The judgment highlighted the fundamental principle of natural justice, necessitating a fair hearing before any adverse decision. The matter was remanded to the original authority for a fresh hearing in accordance with the law.

Conclusion: The Orissa High Court's decision to quash the ex-parte order and remand the matter for a fair hearing underscores the significance of procedural fairness in legal proceedings. The judgment reaffirms the principle that all parties must be given an opportunity to present their case before any adverse action is taken. This case serves as a reminder of the importance of due process and upholding the principles of natural justice in administrative proceedings.

18. GST Appellate authority cannot Remand proceedings to original authority

Case Name : Kronos Solutions India Private Limited Vs Union of India (Allahabad High Court)

Appeal Number : Writ Tax No. - 1417 of 2023

Date of Judgement/Order : 31/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Allahabad High Court (670)

Kronos Solutions India Private Limited Vs Union of India (Allahabad High Court)

Introduction: The Allahabad High Court recently rendered a crucial judgment in the case of Kronos Solutions India Private Limited vs Union of India, focusing on a CGST appeal against an order by the Adjudicating Authority. The petitioner contested the decision of the Joint Director (CGST) (Appeals), Noida, dated 21.2.2023, urging that it violated Section 107(11) of the CGST Act, 2017.

Detailed Analysis: The heart of the matter lies in the power of the Appellate Authority to remand the case to the Adjudicating Authority. Section 107(11) explicitly outlines three options for the Appellate Authority: confirm, modify, or annul the order under appeal. **The legislative intent is clear – no inherent power allows the Appellate Authority to set aside the order and remand the proceedings to the original authority.**

In this case, the impugned order partially allowed the appeal and remanded the matter to the original adjudicating authority for de novo adjudication. The court, after considering Section 107(11), concluded that the appeal authority failed to exercise its jurisdiction in accordance with the law. The legislative provision prohibits the referral of the case back to the adjudicating authority, and any deviation from this mandate renders the order unsustainable.

The judgment underscores the significance of adhering to statutory prescriptions and emphasizes that the appeal authority must choose from the specified options without the authority to remand the case. The court set aside the impugned order and remanded the matter to the appeal authority for a fresh decision after affording a fair hearing to the parties involved.

Conclusion: In conclusion, the Allahabad High Court's decision in the Kronos Solutions India Private Limited vs Union of India case serves as a precedent reaffirming the limitations on the Appellate Authority's power under Section 107(11) of the CGST Act, 2017. The court's meticulous analysis ensures adherence to statutory provisions and upholds the principles of natural justice. This judgment is a significant development in the realm of GST appeals, setting a clear precedent for the jurisdiction of the Appellate Authority in such matters.

19. Bail granted when accused willing to deposit certain amount with GST Authorities

Case Name : Isithore Vs Senior Intelligence Officer (Madras High Court)

Appeal Number : CRL OP(MD). No.838 of 2024

Date of Judgement/Order : 23/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Madras High Court (1449)

Isithore Vs Senior Intelligence Officer (Madras High Court)

Introduction: In a recent ruling by the Madras High Court, the case of Isithore v. Senior Intelligence Officer addressed the bail application of a Chartered Accountant accused of GST violations. The court's decision to grant bail contingent upon the deposit of a specified amount with the GST Authorities has significant implications for similar cases.

The Hon'ble Madras High Court in the case of *Isithore v. Senior Intelligence Officer [CRL OP (MD) 838 of 2024 dated January 23, 2024]* allowed the bail application of the Accused Chartered Accountant on the condition that the certain amount be deposited with the GST Authorities.

Facts:

Isithore ("**the Petitioner**") is a Chartered Accountant and has been alleged to commit GST violation and thereby, the case was registered against the Petitioner by the GST Authorities ("**the Respondent**") for which the present bail application is filed.

Issue:

Whether Bail Application be allowed when accused is willing to deposit certain amount with GST Authorities?

Held:

The Hon'ble Madras High Court in the case of ***CRL OP (MD) 838 of 2024*** held as under:

- Opined that, as the Petitioner is in judicial custody for more than seven months and has come forward to deposit the sum of Rs. 50,00,000/- to the Respondent, the Hon'ble Court may consider the Petitioner's bail application.
- Held that, the Petitioner be released on bail by executing the bond with two sureties.

Conclusion: The ruling in *Isithore v. Senior Intelligence Officer* underscores the judiciary's nuanced approach to bail applications in cases involving financial irregularities. By granting bail on the condition of depositing a specified amount with GST Authorities, the court addresses concerns of flight risk and underscores the importance of meeting legal obligations. This decision sets a precedent for similar cases, emphasizing the significance of financial accountability in legal proceedings.

20. Assessee Eligible to File Revocation Application Upon Meeting All Tax Payment requirements

Case Name : Badajena Iron & Steel Industries (P.) Ltd. Vs CT and GST Officer (Orissa High Court)

Appeal Number : W.P.(C) No.485 of 2024

Date of Judgement/Order : 16/01/2024

Related Assessment Year :

Courts : All High Courts (12514) Orissa High Court (234)

Badajena Iron & Steel Industries (P.) Ltd. Vs CT and GST Officer (Orissa High Court)

Assessee entitled to file revocation application if complies with all requirements of paying taxes, interest, late fee and penalty dues

Introduction: The recent decision by the Orissa High Court in Badajena Iron & Steel Industries (P.) Ltd. v. ST and GST Officer reaffirms the rights of an Assessee to file a revocation application for the cancellation of GST registration, provided all tax obligations are met. This article explores the implications of the court's ruling and its alignment with previous judgments and regulatory amendments.

The Hon'ble Orissa High Court in the case of ***Badajena Iron & Steel Industries (P.) Ltd. v. ST and GST Officer [Writ Petition (Civil) No. 485 of 2023 dated January 16, 2024]*** held that the Assessee is entitled to file the revocation application against the cancellation of the GST registration, if the Assessee complies with the requirements of paying taxes, interest, late fee, penalty, etc. dues. Thus, the returns filed by the Petitioner would be accepted by the department.

Facts:

Badajena Iron and Steel Industries (P.) Ltd. (**“the Petitioner”**) had filed an application for revocation against cancellation of registration was rejected due to delay in filing it. The said revocation application was condoned.

The Revenue Department (**“the Respondent”**) contended that as long as delay in filing the revocation application is condoned and the Petitioner complies with all the requirements of paying taxes, interest, late fee, penalty etc. due, returns would be acceptable by the Department.

Hence, aggrieved by the circumstance, the present writ petition was filed by the Petitioner.

Issue:

Whether Petitioner can file the application for revocation of cancellation of the GST registration in case the Petitioner has delayed in filing it?

Held:

The Hon’ble Orissa High Court ***Writ Petition No. 485 of 2024*** held as under:

- Directed that, subject to the Petitioner depositing all the taxes, interest, late fee, penalty etc. due and complying with other formalities, the Petitioner’s application for revocation will be considered in accordance with law.
- Held that, the Petitioner will have to produce the order of the present judgment before the proper officer, and he will open the portal to enable the Petitioner to file the GST returns.

Hence, the writ was disposed of.

Our Comments:

- Similar were the facts and issue before the Hon'ble Orrisa High Court in the case of ***Rakesh Kumar Sethi v. Commissioner of Central Goods and Service tax [Writ Petition (C.) No. 41639 of 2023 dated January 02, 2024]*** and ***Bhagabati Prasad kar v Superintendent, CGST and Central Excise [Writ Petition (C.) January 24, 2023]***, where the court held in the same lines.
- Earlier, the 49th Meeting of the GST Council was held on February 18, 2023 in New Delhi, wherein it was recommended to increase the time limit for applying for revocation of cancellation of GST registration from 30 days to 90 days. It was also recommended that the time limit be extended by the Commissioner/officer for a further period of not exceeding 180 days. Subsequently, the CBIC vide **Notification No. 38/2023 – (Central Tax) dated August 04, 2023** has issued 'the Central Goods and Services Tax (Second Amendment) Rules, 2023' to further amend the **Central Goods and Services Tax, Rules, 2017** ("the CGST Rules") in to order to align with recommendations of the 49th GST Council Meeting.
- Under Section 30(1) of the **Central Goods and Service Tax Act, 2017** ("the CGST Act") read with Rule 23(1) of the CGST Rules an application for revocation of cancellation of GST registration can be applied.

Conclusion: The ruling in Badajena Iron & Steel Industries (P.) Ltd. v. ST and GST Officer underscores the importance of compliance with tax obligations for Assesseees seeking revocation of GST registration cancellation. By clarifying the conditions for filing a revocation application and directing portal accessibility upon compliance, the court ensures procedural fairness while upholding the integrity of the GST regime. This decision,

alongside regulatory amendments, contributes to a transparent and accountable tax administration framework.