

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

GST UPDATE
(May 2024)

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GIST of GST Notification

Centre's Notification No.	Subject
Notification No. 11/2024-Central Tax [G.S.R. 297 (E)]	Amendment Notification Assigns Kotputli-Behror to CGST Alwar
Notification No. 10/2024-Central Tax [G.S.R. 296(E)]	CGST: Territorial Jurisdiction of Principal Commissioner/Commissioner of Central Tax amended in Rajasthan

Notification Central Tax (01)

CGST: Territorial Jurisdiction of Principal Commissioner/Commissioner of Central Tax amended in Rajasthan

editor7 30 May 2024 270 Views 0 comment Print Goods and Services Tax |
Notifications- Central Tax, Notifications/Circulars

On May 29, 2024, the Ministry of Finance (Department of Revenue), Central Board of Indirect Taxes and Customs (CBIC), issued Notification No. 10/2024-Central Tax. This notification, published as G.S.R. 296(E), introduces amendments to the Territorial Jurisdiction of Principal Commissioner/Commissioner of Central Tax under the Central Goods and Services Tax (CGST) Act, 2017, and the Integrated Goods and Services Tax (IGST) Act, 2017. These amendments are particularly significant for various districts in the state of Rajasthan and will take effect from August 5, 2023.

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS)

New Delhi

Notification No. 10/2024-Central Tax | Dated : 29th May, 2024 G.S.R. 296(E).—In exercise of the powers conferred 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, with effect from the 5th August, 2023, – (i) for serial number 7 and the entries relating thereto, the following serial number and entries shall be substituted and shall be deemed to have been substituted, namely:- “7 Alwar Districts of Alwar, Khairthal- Tijara, Bharatpur, Deeg, Dholpur, Dausa, Karauli, Sawaimadhopur, Gangapur City, Sikar, Neem Ka Thana and Jhunjhunu and Behror, Bansur, Neemrana, Mandan and Narayanpur tehsils of district Kotputli-Behror in the State of Rajasthan.”; (ii) for serial number 49 and the entries relating thereto, the following serial number and entries shall be substituted and shall be deemed to have been substituted, namely:- “49 Jaipur Districts of Jaipur, Jaipur (Rural), Dudu, Ajmer, Beawar, Tonk and Kekri and Kotputli, Viratnagar and

Shahpura tehsils of district Kotputli-Behror in the State of Rajasthan.”; (iii) for serial number 53 and the entries relating thereto, the following serial number and entries shall be substituted and shall be deemed to have been substituted, namely:- “53 Jodhpur Districts of Jodhpur, Jodhpur (Rural), Phalodi, Nagaur, Didwana-Kuchaman, Pali, Sirohi, Jalore, Sanchore, Barmer, Balotra, Jaisalmer, Bikaner, Churu, Ganganagar, Hanumangarh and Anupgarh in the state of Rajasthan.”; (iv) for serial number 102 and the entries relating thereto, the following serial number and entries shall be substituted and shall be deemed to have been substituted, namely:- “102 Udaipur Districts of Udaipur, Salumbar, Rajsamand, Bhilwara, Shahpura, Chittorgarh, Pratapgarh, Dungarpur, Banswara, Bundi, Baran, Kota and Jhalawar in the state of Rajasthan.”. [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 vide Notification No. 05/2024-Central Tax, dated the 30th January, 2024, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 77(E), dated the 30th January, 2024.

Notification Central Tax (2)

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS)

NOTIFICATION

New Delhi, the 30th May, 2024

Notification No. 11/2024-Central Tax | Dated : 30th May, 2024

G.S.R. 297 (E).—In exercise of the powers conferred 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, – (i) at serial number 7, under column (3), for the the words “Neem ka Thana and Jhunjhunu and Behror, Bansur, Neemrana, Mandan and Narayanpur tehsils of district”, the words “Neem ka Thana, Jhunjunu and” shall be substituted; (ii) at serial number 49, under column (3), the words “and Kotputli, Viratnagar and Shahpura tehsils of district Kotputli-Behror” shall be omitted. [F. No. CBIC-20016/18/2023-GST] RAGHAVENDRA PAL SINGH, Director Ads by Ads by 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 vide Notification No. 10/2024-Central Tax, dated the 29th May, 2024, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 296(E), dated the 29th May, 2024.

Circulars (1)

GST SOP for Newly registered taxpayers: Welcome Letter Guidelines Issued

editor7 16 May 2024 13,026 Views 0 comment Print Goods and Services Tax | Circulars, Featured, Notifications/Circulars

The Circular No. 4/2024 issued by the Tamil Nadu Commercial Taxes Department introduces a Standard Operating Procedure (SOP) aimed at efficiently welcoming newly registered taxpayers under the GST regime. This initiative emphasizes the importance of establishing a meaningful relationship with taxpayers while ensuring compliance and preventing the misuse of the GST system.

Detailed Analysis

SOP Overview

1. Transition from RPAD to Welcome Letter: Historically, registration certificates were sent via Registered Post with Acknowledgement Due (RPAD). However, with the adoption of online registration facilities, the communication of hard copies ceased. The SOP now introduces a ‘Welcome letter’ sent by Territorial Joint Commissioners to new registrants.

2. Purpose and Procedure: The ‘Welcome letter’ serves as a gesture of goodwill towards new taxpayers and aids in verifying the existence of businesses. The SOP outlines the responsibilities of Joint Commissioners and Registering authorities, ensuring seamless implementation. Key Actions Ads by Joint Commissioners’ Responsibilities: Drafting and sending bilingual ‘Welcome letters’ via RPAD, updating delivery status in the TSP Portal, and

initiating follow-up actions for undelivered letters. Registering Authorities' Actions: Issuing Show Cause Notices (SCN) for undelivered letters, conducting physical verifications, and taking appropriate registration actions based on responses received. Implementation and Monitoring Workflow and Reporting: Additional Commissioner (System) provides the necessary infrastructure for implementing the SOP and generating Management Information System (MIS) reports. Ensuring Compliance: Joint Commissioners are tasked with implementing the procedure effectively and monitoring Registering authorities' follow-up actions closely. Conclusion The introduction of Circular No. 4/2024 signifies the Tamil Nadu Commercial Taxes Department's commitment to enhancing taxpayer engagement and compliance under the GST framework. By replacing traditional communication methods with personalized 'Welcome letters' and implementing stringent verification processes, the department aims to foster a culture of transparency and accountability.

GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT
OFFICE OF THE COMMISSIONER OF COMMERCIAL TAXES
EZHILAGAM, CHENNAI-600 005
PRESENT: Dr. D.JAGANNATHAN, I.A.S., COMMISSIONER OF STATE TAX
Circular No. 4/2024 Dated: 16.05.2024 (PP2/GST-15/29/2024)
Sub: GST – Newly registered taxpayers – Standard Operating Procedure (SOP) to be followed 'Welcome letter' to be sent by Territorial Joint Commissioners – guidelines issued – regarding. ***** Under the erstwhile TNGST Act, 1959, and TNVAT Act, 2006, the registration certificate of newly registered dealers was sent by Registered Post with Acknowledgement Due (RPAD). This communication served as a welcome bondage between the department and dealer. The acknowledgement received from Postal Department was also a proof of existence of business. However, with the

introduction of online facility for registration under Total Solution Project (TSP) and TNGST Act, 2017, the communication of hard copy is not in practice and the proof of existence of place of business is available through physical verification only. 2) Further, the importance of eradicating the non-existent taxpayers and bill traders is emphasized in various forums and review meetings. It is felt that, the RPAD services could be effectively used for such verification in the initial stage. In order to welcome the newly registered taxpayer as a goodwill measure and also to prevent the proliferation of bill traders and nipping them in bud, the following Standard Operating Procedure, is prescribed to be followed by the field formations. Action to be initiated by the Joint Commissioners

- i. Once the registration task is approved by the Registering authority, a task will be created in the login of the jurisdictional Territorial Joint Commissioner in the TSP 2.0 Portal. The Joint Commissioners can download the draft 'Welcome letter' from the Portal. The bilingual format of 'Welcome letter' is enclosed in Annexure.
- ii. The Joint Commissioners shall send the signed bilingual 'Welcome letter' to all the newly registered taxpayers through Registered Post with Acknowledgement Due (RPAD). The Reference number (RFN) and date of despatch shall be entered in the TSP Portal.
- iii. Once the 'Welcome letter' is delivered, the date of delivery as per Acknowledgement shall be entered by the Joint Commissioners in the Portal and action is deemed to be completed. If the letter is undelivered, the date of return by post shall be entered by the Joint Commissioners in the Portal and the task shall be forwarded immediately to the Registering authority for further action.

Follow-up action by the Registering authority

- i. A task shall be created in the login of the Registering authority in respect of those cases in which the 'Welcome letter' was not delivered/returned by post.
- ii. Based on the above preliminary verification,

the registering authorities shall issue a Show Cause Notice (SCN) to the taxpayer in GSTN backoffice system. The ARN, date and SCN shall be uploaded in the TSP 2.0 Portal. The Registering authority shall conduct immediate physical verification of place of business for existence of taxpayer and upload the physical verification report in FORM GST REG-30. iii. Based on the reply received from the taxpayer for the SCN issued and physical verification report, the Registering authority may either drop or cancel the registration of taxpayer in the GST Portal. 3) The workflow in the system for above procedure and MIS report including the action taken on the cancellation initiated cases will be provided by Additional Commissioner (System) to all the Joint Commissioners. 4) All Joint Commissioners are instructed to implement the above 'Welcome letter' procedure seamlessly to create a meaningful relationship with taxpayer and monitor the follow up action by Registering authorities closely to prevent the non-existent registered taxpayers from misusing the GST system. Sd/- D. Jagannathan Commissioner of State Tax To All the Joint Commissioners (ST) Territorial Divisions in the State. Copy to: (1) All Additional Commissioners in the O/o CCT, Chennai and LTU (2) Director/Additional Commissioner, Commercial Taxes Staff Training Institute, Chennai -35. (3) All the Joint Commissioners (ST) Intelligence. (4) All the Appellate Joint commissioners in the State. (5) Joint Commissioner (CS) for hosting in Departmental site. (6) All Deputy Commissioners (Territorial and Intelligence) (7) All the Appellate Deputy commissioners in the State. (8) All Heads of Assessment circles in the State. (9) Stock file/spare – 2. /Forwarded by Order/ Deputy Commissioner (P&P) Annexure <<>. Office of the Joint Commissioner, Division... Address..... Landline..... Mobile..... Email..... RFN..... Date : To, Tvl (Legal

Name) Tvl (Trade Name) GSTIN..... Full address with pin code.....
..... Dear Taxpayer, Hearty welcome to the Tamil Nadu Commercial Taxes Department !! I am happy to inform that you are now part of the State GST family consisting of about 7 lakh registered taxpayers. We value your contribution to the State's growth by way of payment of taxes and are committed to resolve any difficulty in complying with GST Act and Rules, 2017. As a newly registered taxpayer, a lot of effort goes to understand the requirements of the GST law and hence you are provided with a brief information for guidance in Annexure. For more detailed and elaborate information on GST, please refer to the GST law, rules, notifications, circulars and advisories issued by the Government from time to time, available in <https://ctd.tn.ciov.in/home> and <https://ast.gov.in>. For any GST Portal Application issues, please e-mail to helodesk.ctdOtn.gov.in (or) Call Help Line number 1800-103-6751. For GST Grievance Redressal, please contact Grievance Redressal Cell located in the Integrated Building for Commercial Taxes and Registration Department at Nandanam, Chennai, over phone at 9444099001, 9444099002 between 10.00 a.m. to 5.45 p.m., on all working days or email to dealergrievances.ctdatn.ciov.in. In case of any Complaints, please contact Complaint cell in the Office of the Commissioner of Commercial Taxes, over phone at 044-28514250. between 10.00 a.m. to 5.45 pm on all working days or e-mail to ctdpetition.ctd@tn.gov.in. I also welcome your feedback and suggestions at <https://ctd.tn.gov.in/feedback> to improve the taxpayer services rendered by the Department. Wishing you all the best in your business venture. Yours sincerely, (Name) Annexure Effective

date of registration ../...../..... First return to be filed on ../...../.....
Registration Type Regular/Composition/Casual Taxable Person/ Non-
Resident Taxable Person/ Input Service Distributor/Tax Deductor at
Source/Tax Collector at Source Return Type GSTR-3B / GSTR-4 / GSTR-5 /
GSTR-6 / GSTR-7 / GSTR-8 Date of filing of monthly returns GSTR-1: on or
before the 11th of the succeeding tax period in case of monthly filing. If it is
quarterly, it should be done before the 13th of the succeeding month
following the quarter end. This return shall also include details of invoice,
debit notes, credit notes and revised invoices issued during the tax period.
GSTR-3B: For regular monthly return filers, the due date for filing of Form
GSTR-3B is 20th day of the succeeding month following the month (tax
period) for which the return pertains. For quarterly return filers, the due date
for filing of Form GSTR-3B, is 22nd day of the month following the quarter
for which the return pertains. Filing of Form GSTR-3B is mandatory for all
Regular and Casual taxpayers, even if there is no business in that particular
tax period. GSTR-5: To be filed by non-resident foreign taxpayers engaged in
taxable activities in India on or before 20th of the succeeding month. GSTR-
6: To be filed by Input Service Distributor on or before 13th of the succeeding
month. GSTR-7: To be filed by Tax Deducted at Source (TDS) Deductor on or
before 10th of the succeeding month. GSTR-8: To be filed by Tax Collected at
Source (TCS) deducting E-Commerce Operator on or before 10th of the
succeeding month. Date of filing of annual return GSTR-4: Annual Return to
be filed by the Composition Tax Payers on or before the 30th day of the
month succeeding the financial year. GSTR-9: Annual Return to be filed by
the Regular Tax Payers on or before the 31st day of the December of the

succeeding the financial year. GSTR 9B: To be filed by the e-commerce operators who have filed GSTR 8 during the financial year on or before the 31st day of the December of the succeeding the financial year. GSTR-9C: To be filed by Tax Payers whose aggregate turnover during a financial year exceeds Rs. 5 Crores along with audited annual accounts and reconciliation statement on or before the 31st day of the December of the succeeding the financial year.

Circulars (2)

Refund of Kerala Flood Cess – instructions issued

Editor 27 May 2024 129 Views 0 comment Print Goods and Services Tax | Circulars, Notifications/Circulars

The Kerala State Goods and Services Tax Department has issued guidelines for the refund of the Kerala Flood Cess, following an amendment to the Kerala Flood Cess Rules 2019. As per Notification S.R.O No. 1284/2023, taxpayers can now apply for refunds using Form KFC RFD-1, which must be submitted manually within two years from the end of the financial year in which the supply was made, or two years from the date of the amendment notification, whichever is later. Taxpayers must submit the filled-out Form KFC RFD-1 along with the required documentation to the proper officer in their jurisdiction's Taxpayer Services Division. These officers will process the applications and, upon approval, issue a Refund Sanction Order (Form KFC RFD-6) and a Refund Payment Order (Form KFC RFD-5). These orders will then be communicated to the District Joint Commissioner of State Tax, Taxpayer Services, who is responsible for disbursing the refunds. For refunds sanctioned by Central Tax Authorities, the process remains similar, with the Refund Sanction and Payment Orders forwarded to the appropriate Joint Commissioner of State Tax for disbursement. The District Joint Commissioner of Taxpayer Services will present these orders to the treasury authorities via their Drawing and Disbursing Officers (DDOs) for payment processing. The refunds will be made from the head of account where the excess payment was recorded. All refund payments will be released through the bank account linked to the taxpayer's GSTIN to ensure accuracy and

traceability. Once the payment is made, the Joint Commissioner of Taxpayer Services will notify the concerned proper officer of State or Central Tax. Additionally, the District Joint Commissioners are required to maintain a detailed register of all refund transactions, ensuring transparency and accountability in the refund process. Strict adherence to the time limits specified in the Kerala Flood Cess (Amendment) Rules 2023 is mandatory for processing refund applications. Proper officers are tasked with promptly communicating the Refund Sanction and Payment Orders to avoid delays. Any difficulties encountered in implementing these instructions should be reported immediately to ensure swift resolution. Office of the Commissioner of State Tax State Goods and Services Tax Department Tax Towers, Karamana, Thiruvananthapuram. E-mail:cstpolicy.sgst@kerala.gov.in Ph: 0471-2785276, Dated: 24-05-2024 File No. CT/5431/2020-C4 Circular No. : 09/2024 Sub : Kerala State Goods & Services Tax Department – Refund of Kerala Flood Cess – instructions issued-reg: Ref: 1. Notification S.R.O No. 1284/2023 dated 28/11/2023 of Government of Kerala 2. Government letter No. B1/21/2024-TD dated 27.03.2024 I. Government, vide Notification referred above amended the Kerala Flood Cess Rules 2019, to include refund provision in Kerala flood Cess Rules. The Application for refund of Kerala Flood Cess shall be submitted manually in Form KFC RFD-1, before the expiry of two years from the last day of the financial year in which such supply was made or before the expiry of two years from the date of notification of the Kerala Flood Cess (Amendment) rules, 2023, whichever is later. In order to streamline the refund process, the following guidelines are issued in exercise of the powers conferred under sub-rule (13) of Rule 3A of the Kerala Flood Cess Rules 2019, 1. The taxpayers shall submit the application for refund (Form KFC RFD-1) duly filled up, along with required

documents, manually, before the proper officer in the jurisdictional Taxpayer Services Division. 2. The refund applications filed by the taxpayers in their respective jurisdiction shall be processed by the respective proper officers. 3. After processing, if the claim is approved partially or fully by the proper officer, the Refund Sanction Order (Form KFC RFD-6) along with the Refund Payment Order (Form KFC RFD-5) issued by the proper officer shall be communicated to the respective District Joint Commissioner of State Tax, Taxpayer Services for disbursal of refund. 4. In the case of refund claim sanctioned by the Central Tax Authorities, the Refund Sanction Order (Form KFC RFD-6) along with the Refund Payment Order (Form KFC RFD-5) shall be forwarded to the Joint Commissioner of State Tax, Taxpayer Services Vertical of the District concerned for disbursal of refund. 5. The District Joint Commissioner of Taxpayer Services vertical shall present the Refund Sanction Orders and Payment Orders received from the proper officers of State Tax or Central Tax, before the treasury authorities, in due format, through their DDOs for disbursal of refund amount. 6. As informed by Government, vide Letter No. B1/21/2024-TD dated 27.03.2024, the Head of Account for refund of Kerala Flood Cess will be the head of account in which the excess payment has been made, which is shown below; MH- 0040 Tax on sales, Trade etc. MIH- 800 Other Receipt SH – 89 Kerala Flood Cess SSH – (01) Collections SSH – (02) Penalty SSH- (03) Interest 7. The payment shall be released only through the Bank Account linked with the GSTIN of the taxpayer. 8. After the release of payment, the Joint Commissioner, Taxpayer Service shall communicate the same to the concerned proper officer of State Tax / Central Tax as the case may be. 9. The District Joint Commissioners of Taxpayer Services shall maintain register for Refund- Kerala Flood Cess Refund Register- in the format shown as Annexure-1. 10. The time limit

stipulated in the Kerala Flood Cess (Amendment) rules, 2023 for processing of refund application shall strictly be followed. 11. The proper officers shall communicate the Refund Sanction Orders and Payment Orders to the respective district Joint Commissioners, Taxpayer Services as early as possible so that, the DDO will have enough time to process the payment within the time limit prescribed under the rules. 11. Any difficulty in implementing the above instructions may be informed at the earliest. AJIT PATIL I A S COMMISSIONER OF STATE TAX To All concerned. Annexure-1 Kerala Flood Cess Refund Register SL. No Name of Taxpayer GSTIN Jurisdiction – Center/ State Number & date of Sanction order Number & date of Payment order Refund Amount Date of receipt of Orders Date of submission to treasury Bank Account No. of Taxpayer Name of Bank and IFS code Date of credit of refund amount in the Taxpayer's bank account

AAAR

Authorized representatives illness: AAAR Tamil Nadu Condoned delay of 27 days

Editor2 25 May 2024 237 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : In re Faiveley Transport Rail Technologies India Private Limited (GST AAAR Tamilnadu)

Appeal Number : Advance Ruling No. AAAR/6/2024 (AR)

Date of Judgement/Order : 21/05/2024

Related Assessment Year :

Courts : AAAR AAR Tamilnadu Advance Rulings

Download Judgment/Order

In re Faiveley Transport Rail Technologies India Private Limited (GST AAAR Tamilnadu) The Authority for Appellate Advance Ruling (AAAR) in Tamil Nadu recently issued a significant order in the case of Faiveley Transport Rail Technologies India Private Limited. This decision revolves around the applicability of GST on specific services and addresses the issue of delayed appeal filing. Here's a comprehensive look at the details of the ruling and its implications. Introduction: Faiveley Transport Rail Technologies India Private Limited, a company engaged in manufacturing and exporting equipment for the rolling stock industry, including railway door

systems and braking systems, filed an appeal under Section 100(1) of the Tamil Nadu Goods & Services Tax Act 2017/Central Goods & Services Tax Act 2017. The appeal challenged the ruling of the Tamil Nadu State Authority for Advance Ruling (AAR) regarding the applicability of GST on car lease services provided to their employees. Additionally, the appeal sought condonation for the delay in filing the appeal.

Detailed Analysis

- 1. Background and Appeal Filing:** The appeal was filed by Faiveley Transport against the Order No. 125/AAR/2023 dated December 20, 2023. The primary issue was whether GST is applicable on the facility of car leases extended to employees as part of their employment. The AAR had previously ruled that GST is applicable on such services, which Faiveley Transport contested.
- 2. Grounds for Appeal:** Faiveley Transport argued that the car lease provided to employees qualifies as a perquisite under the Income Tax Act, 1962, and should therefore be exempt from GST under Entry 1 of Schedule III of the CGST Act, 2017. This exemption is crucial as it impacts the company's compliance and financial liabilities under GST.
- 3. Delay in Filing Appeal:** The appeal was filed 27 days beyond the prescribed time limit of 30 days from the date of receipt of the AAR order. The company attributed the delay to the ill health of their authorized representative, Shri Ganesh Kumar, who was responsible for preparing and filing the appeal. During the personal hearing, the representative provided a medical certificate and other documents to substantiate the claim of illness during the critical period.
- 4. Condonation of Delay:** The AAAR scrutinized the reasons for the delay and the provided medical documents. According to Section 100(2) of the CGST Act, 2017, the appellate authority can condone delays up to an additional 30 days if sufficient cause is shown. The AAAR was satisfied that the illness of the authorized representative constituted sufficient cause, thus condoning the 27-day delay.

and allowing the appeal to be considered on its merits. 5. Key Observations and Findings: Compliance with Legal Provisions: The AAAR noted that the appeal was filed within the condonable period allowed under the proviso to Section 100(2) of the CGST Act, 2017. Substantiated Delay: The provided medical certificate and related correspondence convinced the authority of the genuine nature of the delay. Conclusion: The AAAR's decision to condone the delay in Faiveley Transport's appeal filing highlights the importance of substantiated and genuine reasons in regulatory compliance matters. By allowing the appeal to be heard on its merits, the AAAR ensures that procedural delays do not override substantive justice. This ruling serves as a reminder for companies to maintain diligent documentation and proactive communication in legal and compliance processes. For further details, the complete text of the AAAR order is available on the SEBI website under the legal framework section. Read Order Also: GST & ITC on Employee Services: AAR Tamilnadu Ruling FULL TEXT OF THE ORDER OF AUTHORITY FOR APPELLATE ADVANCE RULING, TAMILNADU At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are in pari materia and have the same provisions in like matter and differ from each other only on few specific provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act, 2017 would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act, 2017. 2. The subject appeal was filed under Section 100(1) of the Tamil Nadu Goods & Services Tax Act 2017/Central Goods & Services Tax Act 2017 (hereinafter referred to the Act') by M/s Faiveley Transport Rail Technologies India Private Limited, (hereinafter referred to as 'Appellant'). The Appellant was

registered under the GST Act vide GSTIN 33AAGCS8525B1ZL. The appeal was filed against the Order No.125/AAR/2023 dated 20.12.2023 passed by the Tamil Nadu State Authority for Advance Ruling (hereinafter referred to AAR) on the Application for Advance Ruling filed by the Appellant. 3.1. The Appellant is a Private Limited company under the administrative control of 'STATE' and they are engaged in the business of manufacturing, supplying and exporting equipment for the Rolling Stock industry. The said equipment includes, inter alia, railway door systems, grills for train coaches, braking systems and pantographs for railways. The Appellant had applied for Advance Ruling vide application ARA-01 No.3/2023 dated 29.12.2022, with regard to certain queries on applicability of GST and eligibility of ITC, with the AAR who vide Ruling No. 125/AAR/2023 dated 20.12.2023 pronounced the decisions for the respective queries raised by the Appellant. 3.2. Aggrieved over one such decision on the issue relating to the query, viz., "Whether GST is applicable on facility of car extended to the employees of the Applicant-Company in the course of employment", where the AAR had ruled that GST is applicable on such services, the Appellant has filed the present appeal. Under the grounds of appeal as submitted by the Appellant, they have contended that the facility of car lease provided to the employees under the employment contract will qualify as a perquisite under the Income Tax Act, 1962, and accordingly would be exempt from payment of GST, as it gets covered under Entry 1 of Schedule III of the CGST Act, 2017. 3.3 We observe that in this case, apart from the merits of the case, the appellant had also filed a petition for condonation of delay. Since the filing of appeal by the appellant in the instant case was beyond the prescribed time limit of 30 days from the passing of Order No.125/AAR/2023 dated 20.12.2023, we are of the opinion that this aspect as to whether the delay in filing the appeal could be condoned

or not, needs to be ascertained, before proceeding to discuss the merits of the case. Accordingly, an opportunity of personal hearing was accorded to the appellant for the limited purpose of condonation of delay. PERSONAL HEARING: 4.1 Shri Ganesh Kumar, Chartered Accountant, who is the authorized representative (AR) of the company, appeared for the Personal Hearing on 14.05.2024 in person. The AR reiterated the submissions made by them in the petition for condonation of delay filed with the application. 4.2 Shri Ganesh Kumar further stated that he is the AR concerned, who has been entrusted with the responsibility of preparing and filing the appeal, and since he was not keeping well during the relevant period of time, the appeal could not be filed in time. The members enquired as to whether any documentary evidence relating to the medical condition of the authorized signatory, was attached along with the application. The AR replied that no such document was attached with the application, but that he is producing now, a medical certificate dated 11.05.2024 which states that Shri Ganesh Kumar, Aged 38 was under treatment with Dr.Pramod Kumar Mishra, BHMS (Reg. No.85247), Mumbai, from 05.03.2024 to 15.03.2024. The AR further added that a letter dated 14.03.2024 had also been addressed to the Commissioner of Commercial. Taxes, Chennai in this regard seeking extension of time for filing the appeal. The members conveyed that they would look into the matter and consider the instant case for condonation of delay, accordingly. DISCUSSION AND FINDINGS: 5.1 We have carefully considered all the material on record, the various submissions made by the Appellant and the applicable statutory provisions. The Appellant is before us, seeking primarily to condone the delay in filing the appeal against the Order No. 125/AAR/2023 dated 20.12.2023 passed by AAR. 5.2 The Appellant has stated that they have received the Advance Ruling No.125/ARA/2023 dated 20.12.2023

passed by the AAR through e-mail on 16.02.2024. They have further stated that the appeal could not be filed in time as the authorized representative who has been entrusted with the responsibility of preparing and filing the appeal, was not keeping well during the relevant period of time. It is seen that the appeal was filed on 12.04.2024, after a delay of 27 days. As per Section 100(2) of the CGST Act, 2017, 30 days is the time limit for filing the appeal from the date of receipt of the order. 5.3 We observe that in the instant case, having received the advance ruling on 16.02.2024, the appellant ought to have filed the appeal before the Appellate Authority for Advance Ruling by 16.03.2024 under normal circumstances, as laid down under Section 100(2) of the CGST Act, 2017. However, the proviso to Section 100(2) of CGST Act, 2017, states as follows :- “Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.” The appellant having filed the application for appeal on 12.04.2024, we notice that the appeal has been filed after a delay of 27 days, but in any case, we find that the appeal has been filed within the condonable time limit of 30 days, as specified in the proviso referred above. 5.4 The appellant claims that Shri Ganesh Kumar, Chartered Accountant, who is the authorized representative (AR) of the company, has not been keeping well during the relevant period of time, and therefore, the appeal could not be filed in time. Now the aspect as to whether the appellant was prevented by a sufficient cause from presenting the appeal, is required to be determined. From the medical certificate dated 11.05.2024 furnished at the time of personal hearing by Shri Ganesh Kumar, it is seen that he was under treatment owing to health issues from 05.03.2024 to 15.03.2024. Further, a letter dated 14.03.2024 had also been addressed to the Commissioner of Commercial

Taxes, Chennai in this regard seeking extension of time for filing the appeal.

5.5 Going by the documents available on record, we are convinced Shri Ganesh Kumar (AR), who has been entrusted with the responsibility of preparing and filing the appeal, was not keeping well during the relevant period of time, i.e., from 05.03.2024 to 15.03.2024. Further, considering the state of affairs at the relevant point of time, the appellant has also sought extension of time for filing the appeal under their letter dated 14.03.2024. This being the case, we feel that the appellant has presented sufficient cause that prevented them from filing the appeal within the normal period. Therefore, we are of the considered opinion that the delay of 27 days beyond the normal time limit in filing the appeal is condonable as provided under the proviso to Section 100(2) of CGST Act, 2017. We further find that this authority is empowered vide Section 101(1) of the CGST/TNGST Acts, 2017 to pass such orders as deemed fit. 6. Accordingly, we pass the following order: ORDER

The delay in filing the appeal by the appellant beyond the normal time limit of 30 days is condoned in terms of proviso to Section 100(2) of CGST/TNGST Acts, 2017, and the appeal will be taken up for consideration on merits.

Judgements (1)

Burden of Proof for Double Movement under GST Lies on Department: Allahabad HC

CA Sandeep Kanoi 22 May 2024 84 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : K Y Tobacco Works Pvt Ltd Vs State of U.P. And 4 Others (Allahabad High Court)

Appeal Number : Writ Tax No. 574 of 2019

Date of Judgement/Order : 13/05/2024

Related Assessment Year :

Courts : All High Courts Allahabad High Court

Download Judgment/Order

K Y Tobacco Works Pvt Ltd Vs State of U.P. And 4 Others (Allahabad High Court)

The case of K Y Tobacco Works Pvt Ltd Vs State of U.P. and 4 Others before the Allahabad High Court highlights a significant aspect of the Uttar Pradesh Goods and Service Tax (UPGST) Act, 2017. The primary issue revolves around the burden of proof for the alleged double movement of goods based on the same set of documents. This judgment reiterates the responsibility of the tax authorities to provide concrete evidence when accusing a taxpayer of evasion. Background of the Case The petitioner, K Y Tobacco Works Pvt Ltd, filed a writ petition challenging the seizure order dated August 13, 2018, the

penalty order dated August 14, 2024, and the appellate order dated January 8, 2019. The seizure was based on the claim that the goods were being transported for the second time using the same documents. However, the petitioner contended that all relevant documents, including the invoice and e-way bill, were in order and that the seizure was unjustified. Arguments Presented For the Petitioner: Ads by Counsel Pooja Talwar argued that the driver's statement, which allegedly indicated the second transport of goods with the same documents, was never provided to the petitioner. The critical document MOV-01, containing the driver's statement, was not made available despite multiple requests. Reliance was placed on the judgment of M/s Anandeshwar Traders v. State of U.P., where it was established that the onus to prove double movement lies with the authorities. For the Respondents: The counsel for the respondents attempted to produce a document purportedly containing the driver's statement, but it was not the official MOV-01 and hence held little evidentiary value. The department failed to provide substantial evidence or conduct a thorough inquiry to support their claim of double movement. Court's Observations and Judgment The court noted the absence of concrete evidence from the respondents to prove the alleged double movement of goods. Citing the precedent set by M/s Anandeshwar Traders, the court emphasized that the burden of proof lies on the department. The authorities did not conduct necessary inquiries or provide the petitioner with adverse material to substantiate their claims. The court criticized the tax authorities for their failure to present relevant documents and assist their counsel adequately, which undermined the defense of the department. Consequently, the seizure and penalty orders were quashed, and the petitioner was granted consequential reliefs, including the refund of the deposited penalty and security within six weeks. Conclusion The judgment in K Y

Tobacco Works Pvt Ltd Vs State of U.P. underscores the importance of due process and the burden of proof in tax evasion cases under the UPGST Act. The Allahabad High Court reaffirmed that authorities must provide substantial evidence when alleging double movement of goods and must assist their counsel effectively to defend their case. This decision not only provides relief to the petitioner but also serves as a directive to tax authorities to adhere strictly to procedural requirements and evidence-based assessments in future cases. FULL TEXT OF THE JUDGMENT/ORDER OF ALLAHABAD HIGH COURT

1. Heard Mrs. Pooja Talwar, learned counsel for the petitioner and Sri Rishi Kumar, learned Additional Chief Standing Counsel appearing for the respondents. 2. This is a writ petition under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the seizure order dated August 13, 2018, the order dated August 14, 2024 imposing penalty under Section 129(3) of the Uttar Pradesh Goods and Service Tax Act, 2017 and the appellate order dated January 8, 2019. 3. Pooja Talwar, learned counsel for the petitioner submits that the relevant documents were present in the vehicle and the goods matched invoice and the e-way bill. The sole ground on which the goods were detained and seized and penalty order was passed, was the statement supposedly given by the Driver of the vehicle who submitted that he was transporting the goods for the second time with the same documents. She further submitted that the primary documents being MOV-01 wherein the statement of the Driver is recorded has never been provided to the petitioner. 4. Upon such query being put by the Court, counsel appearing on behalf of the respondents submits that he tried to obtain MOV-01 and the statement of the Driver. However, it appears that the Officer concerned has not been able to provide the MOV-01 till date, in spite of several requests made to him. Today, the counsel appearing on behalf of the

respondents has provided a sheet of paper that is supposedly the statement given by the Driver. However, the same is not accompanied by the MOV-01.

5. In light of the same, this document is of very little evidentiary value. 6. Pooja Talwar, counsel appearing on behalf of the petitioner has placed reliance on a judgement of a coordinate Bench of this Court authored by Hon'ble Saumitra Dayal Singh, J., in M/s Anandeshwar Traders v. State of U.P. and Others reported in (2021 U.P.T.C. [Vol.107]-421), wherein his Lordship has held as follows :- “10. Even if the dealer does not cancel the e-way bill within 24 hours of its generation, it would remain a matter of inquiry to determine on evidence whether an actual transaction had taken place or not. That would be subject to evidence received by the authority. As such it was open to the seizing authority to make all fact inquiries and ascertain on that basis whether the goods had or had not been transported pursuant to the e-way bills generated on 24.11.2019. Since the petitioner-assessee had pleaded a negative fact, the initial onus was on the assessing authority to lead positive evidence to establish that the goods had been transported on an earlier occasion. Neither any inquiry appears to have been made at that stage from the purchasing dealer or any toll plaza or other source, nor the petitioner was confronted with any adverse material as may have shifted the onus on the assessee to establish non- transportation of goods on an earlier occasion. 11. The presumption could not be drawn on the basis of the existence of the e-way bills though there did not exist evidence of actual transaction performed and though there is no statutory presumption available. Also, there is no finding of the assessing authority to that effect only. Mere assertion made at the end of the seizure order that it was clearly established that the assessee had made double use of the e-way bills is merely a conclusion drawn bereft of material on record. It is the reason based on facts and evidence found by

the assessing authority that has to be examined to test the correctness of the order and not the conclusions, recorded without any material on record.” 7. In view of the ratio laid down in the above judgement, it is clear that it is the duty of the authorities to ascertain that whether the double movement of the goods has taken place actually. In the present case, no such burden of proof has been discharged by the respondents. 8. From the documents available, it is clear that the respondent authorities have not been able to indicate or prove any mens rea for evasion of tax. 9. In light of the same, the impugned orders dated August 13, 2018, August 14, 2024 and the appellate order dated January 8, 2019 are quashed and set aside. Consequential reliefs to follow. 10. The amount of penalty and security that has been deposited by the petitioner to be refunded within a period of six weeks from date. 11. Accordingly, this writ petition stands allowed. 12. A general caution is required to be given to the authorities in respect of the non-assistance and non-providing the relevant documents to the counsel appearing on behalf of respondent authorities resulting in failure of the department’s lawyers to defend the case of the department in an effective manner. It is to be noted that this Court on several occasions has passed orders in favour of the assessee as the department has not able to defend its case by timely providing relevant documents to the State counsel. 13. The Commissioner, State Tax, U.P. is directed to take note of this fact and ensure that in future proper assistance is provided to the counsel appearing on behalf of the State/respondents. Registrar Compliance is directed to communicate this order to the Commissioner, State Tax, U.P. forthwith.

Judgements (2)

Alleged excess claim of Input Tax Credit: Delhi HC Orders Re-Adjudication

CA Sandeep Kanoi 22 May 2024 87 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : Mrishi Marcndey India Ltd Vs Sales Tax Officer (Delhi High Court)

Appeal Number : W.P.(C) 6467/2024 & CM APPL. 26953/2024

Date of Judgement/Order : 07/05/2024

Related Assessment Year :

Courts : All High Courts Delhi High Court

Download Judgment/Order

Mrishi Marcndey India Ltd Vs Sales Tax Officer (Delhi High Court) In a recent ruling by the Delhi High Court, the case of Mrishi Marcndey India Ltd Vs Sales Tax Officer has seen significant developments. The court's decision to restore the matter to the proper officer for adjudication of the Show Cause Notice (SCN) regarding the alleged absence of excess Input Tax Credit (ITC) has raised pertinent legal questions. Let's delve into the detailed analysis of this judgment to understand its implications. The petitioner challenged the order dated 21.12.2023, which disposed of the SCN proposing a hefty demand against them under Section 73 of the Central Goods and Services Tax Act, 2017. The crux of the petitioner's argument rested on their contention that

they possessed substantial evidence to refute any excess claim of Input Tax Credit. Moreover, they highlighted the absence of their Authorized Representative during the period in question as a contributing factor to their delayed response. The court's scrutiny of the order revealed that it was primarily passed due to the petitioner's lack of response. However, the petitioner submitted evidence including account statements and invoices to support their claim of not availing Input Tax Credit beyond entitlement. In light of these facts, the court deemed it appropriate to grant the petitioner another opportunity to respond to the SCN. Consequently, the impugned order was set aside, and the SCN was restored to the file of the proper officer. The petitioner was given a two-week window to furnish a response, following which the Proper Officer was tasked with adjudicating the matter within the prescribed timeframe under Section 75(3) of the Act. It's imperative to note that the court refrained from delving into the merits of the contentions raised by either party, thereby maintaining a neutral stance on the matter. As by The Delhi High Court's decision to re-adjudicate the matter underscores the significance of procedural fairness and the right to be heard. By providing the petitioner with an opportunity to present their case afresh, the court has upheld the principles of natural justice. This ruling not only highlights the importance of due process but also reaffirms the judiciary's commitment to ensuring a fair and equitable resolution of disputes in matters concerning taxation laws.

FULL TEXT OF THE JUDGMENT/ORDER OF DELHI HIGH COURT

Petitioner impugns order dated 21.12.2023, whereby the impugned show cause notice dated 26.09.2023 proposing a demand of Rs. 46,41,15,492/- against the petitioner has been disposed of and demand including penalty has been raised against the petitioner. The order has been passed under Section 73 of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as,

“the Act”]. 2. Learned counsel for the petitioner submits that in response to Show Cause Notice dated 26.09.2023, petitioner on 25.10.2023, requested for some time to file a reply. In the response dated 25.10.2023, petitioner contended that it had concrete evidence to support that there was no excess claim of Input Tax Credit, and sought time on the ground that the Authorized Representative of the petitioner who was handling the accounts was not available during the said period. 3. Leaned counsel submits that there is sufficient material available with the petitioner to substantiate that there is no amount due from the petitioner. It is further contended that the GST Registration of the petitioner was cancelled vide order 24.06.2020 and in the said cancellation order, there was “nil” demand raised against the petitioner. 4. Issue notice. Notice is accepted by the learned counsel appearing for the respondent. With the consent of the parties, the petition is taken up for final disposal today. 5. Perusal of the order dated 21.12.2023 shows that the same has been passed solely on the ground that there was no response received from the petitioner. Petitioner has annexed the copies of certain account statements as well as invoices to contend that the petitioner had not availed Input Tax Credit, contrary to its entitlement. 6. Keeping in view the peculiar facts and circumstances of the case, we are of the view that one opportunity should be granted to the petitioner to file a response to the Show Cause Notice. Thereafter, the Show Cause Notice shall be re-adjudicated in accordance with law. 7. In view of the above, the impugned order dated 21.12.2023 is set aside. The Show Cause Notice is restored on the file of proper officer. 8. Petitioner shall file a response to the Show Cause Notice within a period of two weeks from today. Thereafter, the Proper Officer shall adjudicate the Show Cause Notice in accordance with the law within the time prescribed under Section 75 (3) of the Act after giving an opportunity of a personal hearing. 9. It is

clarified that this Court has neither considered nor commented on the merits of the contentions of either party. All rights and contentions of the parties are reserved. 10. Petition is disposed of in the above terms.

Judgements (3)

Rajasthan HC denies Bail in Rs. 187.68 Cr ITC Fraud case involving 47 Fake Firms

CA Sandeep Kanoi 22 May 2024 78 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : Dheeraj Singhal Vs Union Of India (Rajasthan High Court)

Appeal Number : S.B. Criminal Miscellaneous Bail Application No. 3486/2024

Date of Judgement/Order : 16/05/2024

Related Assessment Year :

Courts : All High Courts Rajasthan High Court

Download Judgment/Order

Dheeraj Singhal Vs Union Of India (Rajasthan High Court)

In a recent judgment, the Rajasthan High Court denied interim bail to Dheeraj Singhal, who faces charges involving fraudulent GST Input Tax Credit (ITC) claims and the passing on of ineligible ITC amounting to Rs. 187.68 crores. Singhal's plea for interim bail on medical grounds was dismissed, with the court citing insufficient medical evidence to warrant his release. This case underscores the judiciary's rigorous scrutiny in financial fraud cases and its cautious approach to granting bail on health grounds. Detailed Analysis The case against Dheeraj Singhal, the proprietor of M/s Om Enterprises, revolves around serious allegations of financial misconduct. During a search operation,

authorities discovered 47 fake firms linked to Singhal on his laptop. He is accused of issuing fake invoices without actual goods transactions, resulting in the wrongful availing of ITC worth Rs. 134.43 crores and further passing on ineligible ITC totaling Rs. 187.68 crores. Medical Grounds for Bail Singhal applied for interim bail citing medical reasons, supported by a report from the Superintendent of Central Jail, Jaipur. The report detailed Singhal's health issues, including obesity, uncontrolled diabetes type-II, obstructive sleep apnea (OSA), and bronchitis. Despite his conditions, the medical report indicated that Singhal was receiving appropriate treatment from SMS Hospital and the jail dispensary. Ads by The court evaluated the medical documents and concluded that while Singhal has notable health issues, they were not severe enough to justify interim bail. The court emphasized that the regular bail application was pending and would be heard soon, thus dismissing the interim bail applications Nos. 1/2024 and 2/2024. Judiciary's Stance on Financial Fraud This case highlights the judiciary's firm stance on financial fraud and the challenges faced by defendants in securing bail on medical grounds. The court's decision reflects a careful balance between ensuring the accused receives necessary medical care and maintaining the integrity of the judicial process in financial crime cases. Conclusion The Rajasthan High Court's refusal to grant interim bail to Dheeraj Singhal reaffirms the legal system's commitment to addressing financial fraud with strict measures. The judgment underscores the importance of robust evidence when seeking bail on medical grounds, particularly in cases involving substantial economic offenses. As Singhal awaits the hearing of his regular bail application, this case serves as a pertinent reminder of the judiciary's vigilance in upholding justice in complex financial fraud cases. FULL TEXT OF THE JUDGMENT/ORDER OF RAJASTHAN HIGH COURT 1. Matter

comes up on applications Nos.1/2024 and 2/2024 in S.B. Criminal Misc. Bail Application No.3486/2024, filed by the accused-petitioner, seeking interim bail on account of his ailment. 2. Petitioner has submitted the medical documents. 3. Verification report was called from Officer of the Superintendent, Central Jail, Jaipur, which reads as under:- “It is intimated that to Hon’ble High Court that Inmate Dheeraj Singhal S/o Bhagwant, Age- 27 Years a known case of Obesity, Uncontrolled-Diebetes Type-II, ?OSA (Obstructive Sleep Apnea) and Bronchitis. He has been referred to SMS Hospital for his treatment on 13 Mar 2024, 15 Mar 2024 and 28 Mar 2024. Presently, he is taking treatment prescribed by SMS Hospital in Jail Dispensary. Need further evolution and treatment from higher centre. Enclosures : 16 Sheets Only BP – 140/84 mm of Hg Pulse- 120/min. SPO – 98% RBS – 408 mg/dl. Medical Officer- Superintendent Central Jail Jaipur – Central Jail Jaipur” 4. The above medical report is enclosed with prescription issued by the concerned Doctor. 5. Learned counsel appearing for Union of India has vehemently opposed the interim bail application and prays for its dismissal. 6. Heard and perused the medical reports of the petitioner. 7. The medical report of the petitioner shows that the petitioner is suffering from obesity, uncontrolled-diebetes type-II and obstructive sleep apnea and bronchitis. 8. The petitioner was referred to SMS Hospital for his treatment and was duly treated. The petitioner is taking treatment as prescribed by the SMS Hospital in Jail Dispensary. 9. It is alleged against the petitioner that being proprietor of M/s Om Enterprises, the petitioner issued fake invoices without supplying the goods and during search operation of the petitioner premises, 47 fake firms were found in the Laptop of the petitioner. It is also alleged against the petitioner that he has availed ineligible Input Tax Credit of at least Rs. 134.43 crores from his 47 fake firms and further passed on

ineligible GST-ITC amounting to Rs. 187.68 crores. 10. The perusal of medical documents of the petitioner does not show that petitioner is in a serious condition and would entitle him to release on interim bail. The regular bail application of the petitioner is also pending and expected to be listed soon, therefore, considering the other facts, I am not inclined to enlarge the accused-petitioner on interim bail. Hence, the application Nos. 1/2024 and 2/2024

Judgements (4)

Procedural Lapses in SCN: Calcutta HC restores GST Registration

CA Sandeep Kanoi 22 May 2024 153 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : Amirul Islam Vs The State of West Bengal & Ors. (Calcutta High Court) Appeal Number : WPA/906/2024

Date of Judgement/Order : 20/05/2024

Related Assessment Year :

Courts : All High Courts Calcutta High Court

Download Judgment/Order

Amirul Islam Vs The State of West Bengal & Ors. (Calcutta High Court)

The case of Amirul Islam Vs The State of West Bengal & Ors. in the Calcutta High Court revolves around the cancellation of GST registration under the West Bengal Goods and Services Tax Act, 2017 (WBGST Act). The petitioner, Amirul Islam, challenged the cancellation of his registration on grounds of procedural lapses and the exceptional circumstances caused by the COVID-19 pandemic. 1. Procedural Lapses in the Show-Cause Notice Amirul Islam's primary contention was that the show-cause notice issued on November 29, 2021, was invalid due to procedural irregularities. According to the petitioner, the notice combined provisions from Rule 21A(2A) and Rule 22(1) of the WBGST Rules, which should be issued separately using different forms (GST REG-31 and GST REG-17 respectively). This combination was

argued to be against the statutory requirements, making the notice and subsequent cancellation of registration legally unsound. 2. Exceptional Circumstances Due to the COVID-19 Pandemic Amirul Islam further argued that his inability to file returns for six consecutive months was due to severe health issues (colon cancer) and the economic impact of the COVID-19 pandemic on his resort business. He pointed out that the Supreme Court had acknowledged the pandemic's impact by extending the application of the Limitation Act until February 28, 2022. Therefore, the petitioner claimed that his failure to comply with the filing requirements should be viewed with sympathy and leniency. Ads by 3. Legal Precedents and Alternative Remedies The petitioner cited several judgments to support his case, including the decisions in Subhankar Golder vs. Assistant Commissioner of State Tax and M/s Euro PVC Fabric vs. Principal Commissioner of Goods and Services Tax. These cases highlighted the principle that procedural lapses in issuing notices could invalidate subsequent actions like cancellation of registration. Additionally, Amirul Islam argued that even though he had not exhausted alternative remedies like filing an appeal, the fundamental procedural errors justified direct intervention by the court. 4. Department's Defense The department argued that the cancellation was justified due to Amirul Islam's non-compliance with return filing for six months, which empowered the officer to cancel the registration under Section 29 of the WBGST Act. They maintained that the notice, although in a combined form, effectively communicated the grounds for cancellation. The department also emphasized that the petitioner's failure to respond to the show-cause notice further justified the cancellation. 5. Court's Consideration The Calcutta High Court considered three main issues: The validity of the show-cause notice. The maintainability of the writ petition despite the availability of alternative

remedies. The potential benefits of revoking the cancellation for both the petitioner and the state. The court noted that the procedural requirement to issue separate notices under different provisions was mandatory. Citing the principle from *Nazir Ahmed vs. King Emperor*, the court held that the procedural lapses rendered the notice invalid. Consequently, the cancellation based on such an invalid notice was also deemed illegal.

6. Impact of COVID-19 and Humanitarian Considerations

The court acknowledged the extraordinary circumstances posed by the pandemic, which had disrupted businesses and compliance capabilities. Given Amirul Islam's health condition and the financial distress caused by the pandemic, the court found it justifiable to give sympathetic consideration to his case.

Conclusion

The Calcutta High Court ultimately set aside the cancellation of Amirul Islam's GST registration, directing the department to restore his registration and allow him to file overdue returns. This decision underscored the importance of adhering to procedural norms and recognized the significant impact of the COVID-19 pandemic on compliance capabilities. The judgment highlights the judiciary's role in balancing strict legal compliance with humanitarian considerations in extraordinary circumstances. This case serves as a vital precedent for similar disputes under the GST regime, emphasizing the need for procedural correctness and the consideration of exceptional circumstances impacting compliance.

Judgements (5)

No Tax/GST Evasion Intent, Section 129(3) Penalty Invalid: Allahabad HC

CA Santosh Vasantryo Dhumal 22 May 2024 453 Views 0 comment Print
Goods and Services Tax | Judiciary

Case Law Details

Case Name : Prahlad Rai Vijay Kumar Vs State of U.P. And 2 Others
(Allahabad High Court)

Appeal Number : Writ Tax No. 587 of 2022

Date of Judgement/Order : Writ Tax No. 587 of 2022

Related Assessment Year : 16/05/2024

Courts : All High Courts Allahabad High Court

Download Judgment/Order

Prahlad Rai Vijay Kumar Vs State of U.P. And 2 Others (Allahabad High Court)

In the case of Prahlad Rai Vijay Kumar vs. State of U.P. (WRIT TAX No. 587 of 2022), the Allahabad High Court held that, in the absence of an intention to evade tax, the penalty order is liable to be quashed. Facts of the Case The petitioner, a taxable person, issued a tax invoice and an e-way bill for the supply made. Both documents were accompanying the vehicle carrying the goods. The vehicle was intercepted for verification, and the goods were found to be in order and matched the invoices and e-way bill. However, the e-way bill had expired nine hours and thirty minutes prior to the

interception. The delay in transportation was due to the vehicle breaking down. This explanation was not considered by the authorities, and a penalty under Section 129(3) of the Uttar Pradesh Goods and Services Act, 2017 (hereinafter referred to as the 'Act'), was imposed. Court's Findings and Conclusion The court noted that in the event of an e-way bill expiring, there is a provision in the portal that allows the transporter, consignor, or consignee to seek an extension. Undisputedly, such an extension was not carried out by the petitioner. Ads by However, in *M/s Hindustan Herbal Cosmetics v. State of U.P. and Others* (Writ Tax No.1400 of 2019 decided on January 2, 2024) and *M/s Falguni Steels v. State of U.P. and Others* (Writ Tax No.146 of 2023 decided on January 25, 2024), the court held that mens rea to evade tax is essential for the imposition of a penalty. In the present case, the goods were accompanied by the relevant documents, and the petitioner's explanation regarding the slow movement of the goods clearly indicated that the truck had broken down, resulting in the delay. This factual aspect should have been considered by the authorities. The breach committed by the petitioner regarding not extending the e-way bill's time period is only a technical breach and cannot be the sole ground for a penalty order under Section 129(3) of the Act. The intention to evade tax is not supported by the factual matrix of the case, and accordingly, the court ordered the penalty to be set aside.

Judgements (6)

HC Proposes Penalties, Disciplinary Proceedings for denying Personal Hearings in GST Cases

CA Sandeep Kanoi 22 May 2024 456 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : Ns Agro And Engineering Products Vs State of U.P. and Another (Allahabad High Court)

Appeal Number : Writ Tax No. 672 of 2024

Date of Judgement/Order : 16/05/2024

Related Assessment Year :

Courts : All High Courts Allahabad High Court

Download Judgment/Order

NS Agro And Engineering Products Vs State of U.P. and Another (Allahabad High Court)

The Allahabad High Court has recently set a significant precedent in the case of NS Agro and Engineering Products Vs State of U.P. and Another, emphasizing the necessity of granting personal hearings to taxpayers during adjudication proceedings under the Central Goods and Services Tax (CGST) Act, 2017. This judgment underscores the critical importance of adhering to procedural law, particularly the principles of natural justice, in tax matters. The court's decision to propose heavy costs and disciplinary actions against erring GST officers highlights the judiciary's stance on ensuring fair

administrative practices. **Case Background** The case involves a challenge against an order dated 19.08.2021, issued by the Deputy Commissioner of the Commercial Tax Department in Sikandrabad, Bulandshahar. The petitioner contended that the order was passed in violation of Section 75(4) of the CGST Act, which mandates an opportunity for a personal hearing when requested or when an adverse decision is anticipated. The State's counsel initially raised an objection based on the availability of an appeal under Section 107 of the CGST Act. However, the petitioner argued that this procedural safeguard was bypassed, rendering the adjudication process fundamentally flawed. **Court's Observations** The Allahabad High Court scrutinized the procedural lapses in the adjudication process. It emphasized that under taxing statutes, the opportunity for a personal hearing is a fundamental procedural right. The court noted that the adjudicating authority neither issued a notice for a personal hearing nor provided an opportunity for the petitioner to present their case orally. This omission was found to be in gross violation of Section 75(4) of the CGST Act. **Ads by** The court further highlighted that such procedural lapses were not isolated incidents but part of a broader pattern observed in similar cases. This prompted the Commissioner of Commercial Tax, Uttar Pradesh, to issue an office memorandum directing compliance with procedural requirements, including proper scheduling and documentation of personal hearings. **Judgment and Directives** The court set aside the impugned order dated 19.08.2021 and remanded the case back to the Deputy Commissioner for a fresh adjudication in compliance with legal requirements, particularly ensuring a personal hearing for the petitioner. Moreover, the court proposed imposing heavy costs for the procedural failures and directed the Commissioner of Commercial Tax, Uttar Pradesh, to consider disciplinary actions against officials who violate principles of natural justice without valid

reasons. Conclusion The Allahabad High Court's judgment in the case of NS Agro and Engineering Products Vs State of U.P. and Another serves as a critical reminder of the importance of procedural fairness in tax adjudication processes. By mandating personal hearings and holding GST officers accountable for procedural lapses, the court reinforces the principles of natural justice. This judgment not only provides relief to the petitioner but also sets a precedent aimed at improving administrative practices within tax authorities. The directive for disciplinary proceedings against erring officials underscores the court's commitment to upholding fair and just administrative processes, ensuring taxpayers' rights are protected.

Judgements (7)

GST registration Cancellation with retrospective effect cannot be mechanical

CA Sandeep Kanoi 27 May 2024 78 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : N K Industries Vs Commissioner of Delhi Goods And Services Tax And Anr (Delhi High Court)

Appeal Number : W.P.(C) 1185/2024 & CM APPL. 4958/2024

Date of Judgement/Order : 10/05/2024

Related Assessment Year :

Courts : All High Courts Delhi High Court

Download Judgment/Order

N K Industries Vs Commissioner of Delhi Goods And Services Tax And Anr (Delhi High Court)

In the case of N K Industries v. Commissioner of Delhi Goods And Services Tax, the petitioner challenged the retrospective cancellation of its GST registration and a show cause notice issued in this regard. The petitioner, engaged in the business of manufacturing, retail, and wholesale of Air or Vacuum Pumps and Compressors, possessed GST registration under the Central Goods and Services Tax Act, 2017. The petitioner argued that the show cause notice did not provide any opportunity to object to the retrospective cancellation of registration. Additionally, the subsequent order

of cancellation did not offer reasons for the retrospective action and contradicted itself by referring to a response from the petitioner while stating that no reply had been submitted. Moreover, the order did not specify any dues against the petitioner. The court observed that the cancellation of registration with retrospective effect cannot be mechanical and must be based on objective criteria. Mere non-filing of returns does not warrant retrospective cancellation covering the period when the returns were filed and the taxpayer was compliant. Additionally, cancellation with retrospective effect affects the input tax credit of the taxpayer's customers, necessitating careful consideration. Both the petitioner and the respondent expressed a desire for cancellation, albeit for different reasons. Considering the petitioner's disinterest in continuing business, the court modified the cancellation date to align with the issuance date of the show cause notice, i.e., 31.01.2022. The petitioner was directed to comply with necessary provisions of the Central Goods and Services Tax Act, 2017. However, the respondents were not precluded from taking steps for recovery of any tax, penalty, or interest due, including retrospective cancellation, after issuing a proper show cause notice and granting an opportunity for a hearing to the petitioner. As a result, in conclusion, the petition was disposed of with the modification of the cancellation date and directions for compliance with the Act, while allowing the respondents to take further steps in accordance with the law.

Judgements (8)

Alleged Excess ITC Claim: Delhi HC Quashes Order for Failure to Consider Petitioner's Reply

CA Sandeep Kanoi 27 May 2024 87 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : MAA Padmawati Lamination Vs Commissioner Delhi Goods And Service Tax And Others (Delhi High Court)

Appeal Number : W.P.(C) 7347/2024

Date of Judgement/Order : 21/05/2024

Related Assessment Year :

Courts : All High Courts Delhi High Court

Download Judgment/Order

MAA Padmawati Lamination Vs Commissioner Delhi Goods And Service Tax And Others (Delhi High Court)

In the case of MAA Padmawati Lamination vs. Commissioner Delhi Goods And Service Tax And Others, the petitioner challenged an order dated 15.03.2024, which created a demand against the petitioner for an alleged excess claim of Input Tax Credit for the financial year 2018-2019. The impugned order noted that no reply or explanation had been received from the taxpayer. The petitioner's counsel argued that a reply was indeed filed, albeit belatedly, on 10.03.2024, before the impugned order was passed. However, the proper officer did not consider the reply. The petitioner contended that the

reply clearly stated that Form GSTR-2A, GSTR-8A, and GSTR-9, available on the portal, demonstrated that there was no excess claim of Input Tax Credit. Upon hearing the submissions, the Delhi High Court issued notice, which was accepted by the counsel representing the respondents. With the consent of the parties, the petition was taken up for final disposal. After examining Form GSTR-2A available on the portal, the court observed prima facie that the proper officer had not carefully examined it. Consequently, the court concluded that the impugned order warranted remittance. Therefore, the impugned order dated 15.03.2024 was set aside, and the Show Cause Notice was restored on the file of the proper officer. The officer was directed to re-adjudicate the Show Cause Notice in accordance with the law, after examining the petitioner's reply and providing an opportunity for a personal hearing within the prescribed period under Section 75(3) of the Act. The court clarified that it had neither considered nor commented on the merits of the contentions of either party, and all rights and contentions of the parties were reserved. Consequently, the petition was disposed of in the above terms.

Judgements (9)

Orissa HC condones delay in filing GST Registration revocation application

CA Sandeep Kanoi 27 May 2024 66 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : BB Medicare Pvt. Ltd. Vs CT & GST Officer (Orissa High Court)

Appeal Number : W.P.(C) No. 11805 of 2024

Date of Judgement/Order : 09/05/2024

Related Assessment Year :

Courts : All High Courts Orissa High Court

Download Judgment/Order

BB Medicare Pvt. Ltd. Vs CT & GST Officer (Orissa High Court)

In the case of BB Medicare Pvt. Ltd. Vs CT & GST Officer, the Orissa High Court addressed a petition involving the delay in filing a revocation application under the Odisha Goods and Services Tax (OGST) Rules. BB Medicare Pvt. Ltd. sought to revoke the cancellation of their GST registration. Key points from the judgment include: The counsel for the CT & GST Department, Mr. S. Mishra, indicated that the authorities would accept the 3B Return Form filed by BB Medicare Pvt. Ltd., provided the delay in filing the revocation application was condoned and all due payments (taxes, interest, late fees, penalties) were made. Condonation of Delay: The court condoned

the delay in filing the revocation application under Rule 23 of the OGST Rules, which governs the procedure for revoking the cancellation of GST registration. Conditional Directive: The court directed that the petitioner's application for revocation would be considered, subject to the payment of all dues and compliance with other formalities. Order Compliance: BB Medicare Pvt. Ltd. was instructed to produce a copy of the court order to the proper officer. Upon compliance with the conditions, the officer was to reopen the portal for filing the GST return. The writ petition was disposed of with these terms Ads

Judgements (10)

Ex-Parte Orders Without Considering Taxpayer's Reply Liable for Set-Aside: Delhi HC

CA Santosh Vasantrya Dhumal 31 May 2024 621 Views 0 comment Print
Goods and Services Tax | Judiciary

Case Law Details

Case Name : Jindal Trading Co. Through Its Proprietor Sh. Suresh Jindal Vs Union of India and Ors. (Delhi High Court)

Appeal Number : W.P.(C) 5966/2024

Date of Judgement/Order : 27/05/2024

Related Assessment Year :

Courts : All High Courts Delhi High Court

Download Judgment/Order

Jindal Trading Co. Through Its Proprietor Sh. Suresh Jindal Vs Union of India and Ors. (Delhi High Court)

The case of Jindal Trading Co. Through Its Proprietor Sh. Suresh Jindal Vs Union of India and Ors. before the Delhi High Court pertains to the issuance of Show Cause Notices (SCNs) and subsequent orders under Section 73 of the Central Goods and Services Tax Act, 2017 (CGST Act). The petitioner challenges orders dated December 24, 2023, and December 28, 2023, regarding demands totaling Rs. 5,35,393.00/- and Rs. 1,89,65,230.00 respectively, along with penalties. The crux of the petitioner's argument lies in the fact that while they were unable to file a reply to one of the SCNs, they

did submit a detailed reply to the other SCN. However, the impugned orders failed to consider the reply submitted by the petitioner, rendering the orders cryptic and unjust. Upon examining the SCNs, the court found them to be vague and unreasoned. The notices merely stated discrepancies without providing substantial evidence or allowing the petitioner to adequately respond. Despite this, the orders were passed without taking into account the petitioner's detailed reply to one of the SCNs. In one instance, the order passed was ex-parte, citing the petitioner's failure to file a reply/explanation within the stipulated period. However, the court found this reasoning unsustainable and ruled that one opportunity must be granted to the petitioner to respond to the SCN before passing such an order. Similarly, in another instance, the order dismissed the petitioner's detailed reply as a "plain reply" lacking proper calculations, reconciliation, and relevant documents. The court deemed this observation unjustified as the petitioner had provided supporting documents, including invoices and bank statements. The Proper Officer failed to consider the reply on its merits and simply dismissed it without proper scrutiny. Ads by Ads by Furthermore, the court noted that if the Proper Officer required further details, they should have specifically requested them from the petitioner. However, there was no evidence to suggest that such an opportunity was given. Consequently, the court set aside the impugned orders and remitted the SCNs to the Proper Officer for re-adjudication. The petitioner was granted 30 days to file a further reply, and the Proper Officer was instructed to re-adjudicate the matter after providing an opportunity for a personal hearing. The orders were to be passed within the prescribed period under Section 75(3) of the CGST Act.

Judgements (11)

Non Consideration Of Detailed Reply By GST Proper Officer: HC directs re-adjudication

CA Prateek Mitruka 31 May 2024 381 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : Ethos Limited Vs Sales Tax Officer Class II Avato Ward 206 Zone 11 Delhi & Anr (Delhi High Court)

Appeal Number : W.P.(C) 6989/2024

Date of Judgement/Order : 17/05/2024

Related Assessment Year :

Courts : All High Courts Delhi High Court

Download Judgment/Order

Ethos Limited Vs Sales Tax Officer Class II Avato Ward 206 Zone 11 Delhi & Anr (Delhi High Court) In a recent judgment, the Delhi High Court, set aside an order passed under Section 73 of the Central Goods and Services Tax Act, 2017. The case, was filed by Ethos Limited against the Sales Tax Officer Class II Avato Ward 206 Zone 11 Delhi & Anr. The court's decision, dated 17th May 2024, highlights the importance of proper consideration of replies and supporting documents by the Proper Officer. Background The impugned order, dated 24th April 2024, disposed of the Show Cause Notice dated 10th December 2023, which proposed a demand of Rs.2,92,00,063.00 against the petitioner. The Department had raised various grounds. The

petitioner had filed a detailed reply on 20th February 2024, providing responses to each of the grounds along with supporting documents. Court's Analysis The court observed that the impugned order failed to consider the petitioner's reply and was cryptic in nature. It noted that the reply filed by the petitioner had given full particulars regarding the tax paid on outward supplies, which were alleged to be under-declared. The court found the observation in the impugned order, stating that the reply was devoid of merits without any justification or proper reconciliation, to be unsustainable. It emphasized that the Proper Officer should have at least considered the reply on merits before forming an opinion. The court further highlighted that if the Proper Officer required additional details, they should have specifically sought them from the petitioner. However, there was no record of any such opportunity being given to the petitioner to clarify their reply or furnish further documents/details. Based on these grounds, the court set aside the impugned order in respect of the issues held against the petitioner. Court's Decision The court remitted the Show Cause Notice to the Proper Officer for re-adjudication, with the limited extent of the demand towards the taxes on output supply, which had already been dropped by the Proper Officer. The petitioner was granted a period of 30 days to file a further reply to the Show Cause Notice. The Proper Officer was directed to re-adjudicate the matter after providing an opportunity for a personal hearing and pass a fresh speaking order in accordance with the law within the prescribed period under Section 75(3) of the Act. Conclusion The Delhi High Court's decision in the case of Ethos Limited v. Sales Tax Officer Class II Avato Ward 206 Zone 11 Delhi & Anr highlights the importance of proper consideration of replies and supporting documents by the Proper Officer in GST cases. The court's emphasis on the need for the Proper Officer to apply their mind to the reply

submitted by the petitioner and provide an opportunity for clarification or submission of further details ensures a fair and just adjudication process. This judgment serves as a reminder of the principles of natural justice and the importance of a thorough examination of the facts and evidence before reaching a decision in GST matters.

Judgements (12)

GST order uploaded in wrong section of Website: Calcutta HC allows Appeal filing

CA Sandeep Kanoi 30 May 2024 516 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : Probir Ghosh Vs State of West Bengal & Ors. (Calcutta High Court)

Appeal Number : W.P.A. 8512 of 2024

Date of Judgement/Order : 06/05/2024

Related Assessment Year :

Courts : All High Courts Calcutta High Court

Download Judgment/Order

Probir Ghosh Vs State of West Bengal & Ors. (Calcutta High Court)

The case of Probir Ghosh versus the State of West Bengal and others, adjudicated by the Calcutta High Court, revolves around procedural issues related to the service and notification of GST-related notices. Probir Ghosh, the petitioner, challenged several notices and an order under the West Bengal Goods and Services Tax (WBGST) Act, 2017. Factual Background The Court retained an affidavit of service filed by the petitioner as part of the court record. The petitioner challenged a pre-show cause notice dated November 22, 2022, a show cause notice dated March 31, 2023, for the financial period 2017-18, and an order dated June 16, 2023, issued by the third respondent.

Petitioner's Arguments Improper Uploading of Notices: The petitioner's counsel, Mr. Ray, argued that the relevant notices and orders were not uploaded in the "view notices and orders" section of the GST portal, where they were expected to be found. Instead, they were uploaded in the "additional notices and orders" section. This misplacement allegedly led the petitioner to miss these notices, resulting in an ex parte order being passed on June 16, 2023. Violation of Natural Justice: Mr. Ray contended that because the petitioner was unaware of the notices due to their improper placement on the portal, the subsequent order violated principles of natural justice. He cited a judgment from the High Court of Madras in Sabari Infra Pvt. Ltd. versus Assistant Commissioner, which supported his argument that such notices should be published correctly to ensure due process. Request for Remand: Given the circumstances, Mr. Ray requested that the entire proceeding be set aside and remanded back to the third respondent for a fresh adjudication starting from the issuance of the pre-show cause notice. State's Arguments Availability of Alternative Remedy: The State's counsel, Mr. Ray, opposed the petitioner's plea, arguing that the petitioner had an alternative remedy available under Section 107 of the WBGST Act, which allows for appeals against orders issued under Section 74. Publication in Common Portal: He further argued, citing Section 169(1)(d) of the WBGST Act, that the notices were duly published on a common portal accessible to the petitioner. Therefore, the petitioner's claim of missing the notices due to their incorrect placement was invalid. Lack of Specificity: The State highlighted that the petitioner failed to specify when he became aware of the notices and the order, which undermined his argument. Court's Findings No Specific Disclosure by Petitioner: The Court noted that the petitioner did not specify when he discovered the notices had been uploaded in the "additional notices and

orders” section instead of the “view notices and orders” section. No Exercise of Discretion: Due to this lack of specificity, the Court was disinclined to exercise discretion in favor of the petitioner. Court’s Decision Permission to Appeal: Considering the petitioner had an alternative remedy, the Court allowed the petitioner to approach the appellate authority under Section 107 of the WBGST Act. Condonation of Delay: If the petitioner filed an appeal within six weeks from the date of the order, along with an appropriate application for condonation of delay, the appellate authority would hear and dispose of the application. Upon condoning the delay, the appeal would be addressed on its merits, subject to compliance with pre-deposit provisions. Guidance for Condonation: The Court directed the appellate authority to be guided by judgments in S.K. Chakraborty & Sons versus Union of India and Mukul Islam versus The Assistant Commissioner of Revenue, State Tax Cooch Behar Range. Conclusion The writ petition, WPA 8515 of 2024, was disposed of without any order as to costs. The Court directed all parties to act based on the server copy of the order available on its official website. This case underscores the importance of proper procedural adherence in the digital notification of tax notices and the adherence to principles of natural justice, highlighting the interplay between technological processes and legal rights.

Judgements (13)

Delhi HC orders GSTN officer to submit affidavit on portal issues in SCN

Editor2 29 May 2024 465 Views 0 comment Print Goods and Services Tax |
Judiciary

Case Law Details

Case Name : R.A. International (Through Its Proprietor Rakesh Mittal) Vs
Commissioner of CGST (Delhi High Court)

Appeal Number : W.P.(C) 6332/2024

Date of Judgement/Order : 07/05/2024

Related Assessment Year :

Courts : All High Courts Delhi High Court

Download Judgment/Order

**R.A. International (Through Its Proprietor Rakesh Mittal) Vs
Commissioner of CGST (Delhi High Court)**

Introduction: In the landmark case of R.A. International (Through Its Proprietor Rakesh Mittal) vs. Commissioner of CGST, the Delhi High Court addressed significant procedural issues concerning the issuance of Show Cause Notices (SCNs) for GST registration cancellations. The court's directive to a GSTN officer to provide a detailed affidavit on the functioning of the GST portal underscores the critical role of technological infrastructure in ensuring fair and transparent administrative processes. Detailed Analysis
Background of the Case: The petitioner, R.A. International, challenged the Show Cause Notice (SCN) dated April 22, 2024, which led to the suspension

of its GST registration effective from the same date. The SCN was issued under Section 29(2)(e) of the Central Goods & Services Tax Act, 2017 (CGST Act), citing “fraud, willful misstatement, or suppression of facts” as the grounds for cancellation. However, the notice lacked detailed reasons and omitted the name and designation of the issuing officer due to technical glitches in the GST portal.

Key Observations by the Court

The Delhi High Court highlighted several procedural lapses in the issuance of the SCN:

- 1. Lack of Detailed Reasons:** The SCN failed to provide specific reasons for the proposed cancellation, merely listing a generic ground from a dropdown menu on the portal. This lack of detail contravenes the requirement for clarity and transparency in administrative actions.
- 2. Automatic Suspension Date:** The SCN stated that the GST registration would be suspended from the date of the notice. However, this date was automatically generated by the portal, leaving no room for the Proper Officer to exercise discretion or apply their judgment.
- 3. Missing Officer Details:** The absence of the issuing officer’s name and designation further compounded the issue, raising questions about the accountability and legitimacy of the notice.

Court’s Directive

In light of these observations, the court deemed it necessary to obtain a comprehensive understanding of the GST portal’s functionality. The court directed a senior competent officer from the GSTN Network to file an affidavit addressing the following points:

- The reasons reflected in the SCN and how they are generated.
- Options available to the Proper Officer for adding additional grounds or reasons.
- The inclusion of the issuing officer’s name, designation, and signature in the SCN.
- Information accessible to the assessee once the SCN is uploaded on the portal.
- The process and criteria for determining the suspension date of the GST registration.

The affidavit was to be filed within one week, with the next hearing scheduled for May 22, 2024.

Judgements (14)

Reversal of Erroneously Availed ITC TRAN-I: HC directs re-adjudication

CA Sandeep Kanoi 28 May 2024 519 Views 0 comment Print Goods and Services Tax | Judiciary

Case Law Details

Case Name : Chemrow India Private Limited Vs Commissioner of Delhi Goods And Service Tax And Others (Delhi High Court)

Appeal Number : W.P.(C) 6503/2024

Date of Judgement/Order : 07/05/2024

Related Assessment Year :

Courts : All High Courts Delhi High Court

Download Judgment/Order

Chemrow India Private Limited Vs Commissioner of Delhi Goods And Service Tax And Others (Delhi High Court)

In a recent judgment, the Delhi High Court addressed the issue of the non-application of mind by the Proper Officer in a case involving the reversal of erroneously availed Input Tax Credit (ITC) TRAN-I. The court's decision highlights the importance of proper consideration of taxpayer responses and directs re-adjudication on the matter. The petitioner challenged the order dated 30.12.2023, which disposed of the Show Cause Notice proposing a demand against the petitioner under Section 73 of the Central Goods and Services Tax Act, 2017. The court noted that while the petitioner had submitted a detailed

reply dated 10.10.2023, the impugned order did not adequately consider this response. Despite the petitioner providing supporting documents and addressing each issue raised in the Show Cause Notice, the Proper Officer deemed the reply incomplete and confirmed the demand of tax and interest. Furthermore, the court observed that the rectification order dated 30.03.2024 failed to address the petitioner's plea regarding the duplication of Input Tax Credit (ITC) in TRAN-1. The petitioner had asserted that the ITC was erroneously taken twice and duly reversed in the subsequent financial year with interest. However, this contention was not considered by the Proper Officer. Consequently, the Delhi High Court set aside the impugned order and remitted the Show Cause Notice to the Proper Officer for re-adjudication. The court directed the Proper Officer to consider the petitioner's reply on merits, provide an opportunity for clarification or further documentation if needed, and pass a fresh speaking order in accordance with the law. The court also instructed the Proper Officer to examine the petitioner's contention regarding the reversal of erroneously availed ITC TRAN-I in accordance with the law. The petitioner was granted 30 days to file a further reply to the Show Cause Notice, after which the Proper Officer would re-adjudicate the matter and issue a fresh order within the prescribed period under Section 75(3) of the Act. Ads by Ads by The Delhi High Court's judgment underscores the importance of the Proper Officer applying their mind to taxpayer responses and considering all relevant evidence before confirming tax demands. By directing re-adjudication on the reversal of erroneously availed ITC TRAN-I, the court ensures a fair and transparent process in line with the provisions of the Central Goods and Services Tax Act, 2017.

Judgements (15)

GST Appeal Shouldn't Be Dismissed Solely for Late Certified Copy Submission

CA Sandeep Kanoi 28 May 2024 432 Views 0 comment Print Goods and Services Tax |

Judiciary Case Law Details Case Name :

Enkay Polymers Vs State Of U.P. And 2 Others (Allahabad High Court)

Appeal Number : Writ Tax No. 1155 of 2023 Date of Judgement/Order : 16/05/2024

Related Assessment Year : Courts :

All High Courts Allahabad High Court Download Judgment/Order Enkay Polymers Vs State of U.P. And 2 Others (Allahabad High Court)

In the case of Enkay Polymers vs State Of U.P. And 2 Others, the Allahabad High Court addressed a key procedural issue concerning the submission of certified copies in GST appeals. The petitioner, Enkay Polymers, filed a writ petition under Article 226 of the Constitution of India, challenging an order dated July 03, 2023, passed by the Additional Commissioner, Grade-2 (Appeal)-IV, State Tax Ghaziabad. The order rejected the petitioner's appeal on the grounds that it was time-barred because the self-certified copy of the decision or order was not submitted within the required time frame as stipulated by Rule 108 of the Central Goods and Services Tax (CGST) Rules, 2017. The petitioner argued that under Rule 108, when an appeal is filed electronically via the common portal in FORM GST APL-01, there is no requirement to submit a self-certified copy of the decision. This requirement

only applies if the appeal is not uploaded on the common portal. Rule 108 provides that an appeal must be filed in FORM GST APL-01 along with relevant documents, either electronically or otherwise as notified. The rule also specifies that if the decision appealed against is uploaded on the common portal, a final acknowledgment indicating the appeal number shall be issued, and the date of the provisional acknowledgment will be considered as the date of filing the appeal. If the decision is not uploaded on the common portal, the appellant must submit a self-certified copy within seven days of filing FORM GST APL-01. The court referred to decisions from other High Courts to support its stance. The Orissa High Court in the case of Atlas PVC Pipes Ltd. vs. State of Odisha held that the non-submission of a certified copy is a technical defect and should not lead to the dismissal of an appeal if the copy was uploaded on the GST portal. Similarly, the Madras High Court in PKV Agencies vs. Appellate Dy. Commissioner (GST) (Appeals), Vellore concluded that the requirement to furnish a certified copy within seven days is a procedural requirement. It can be condoned under Article 226 of the Constitution of India as it is a technical defect. The Allahabad High Court noted these precedents and examined Section 107 of the CGST Act, 2017, in conjunction with Rule 108 of the CGST Rules, 2017. The court concluded that if an appeal is filed electronically within the prescribed time frame of three months, the non-filing of a certified copy within seven days should not result in the dismissal of the appeal. The court held that this procedural requirement is a technicality and should not override the merits of the appeal. Consequently, the court quashed and set aside the impugned order dated July 03, 2023. It directed the appellate authority to rehear the appeal and pass a reasoned order on merits within three months. This judgment emphasizes that procedural lapses, such as the late submission of certified copies, should not

preclude the substantive hearing and determination of appeals, aligning with the principles of justice and fairness.

Judgements (16)

Place of residence in PAN details is decisive for jurisdiction: Allahabad HC

CA Sandeep Kanoi 28 May 2024 531 Views 0 comment Print Goods and Services Tax |

Judiciary Case Law Details Case Name :

Ziyauddin Traders Vs Assessment Officer National Faceless Assessment Centre And Another (Allahabad High Court)

Appeal Number : Writ Tax No. 709 of 2024

Date of Judgement/Order : 08/05/2024

Related Assessment Year : Courts :

All High Courts Allahabad High Court Download Judgment/Order Ziyauddin Traders Vs Assessment Officer National Faceless Assessment Centre And Another (Allahabad High Court) The case of Ziyauddin Traders vs Assessment Officer National Faceless Assessment Centre and Another, heard by the Allahabad High Court, concerns an assessment order passed by the Faceless Assessment Center under Section 144-B of the Income Tax Act, 1961 for the assessment year 2022-23. The petitioner, Ziyauddin Traders, challenged this assessment order on various grounds. The primary challenge raised by the petitioner was regarding the jurisdiction of the Allahabad High Court to entertain the petition. The revenue argued that since the petitioner filed its return from outside the state of Uttar Pradesh (U.P.) and the assessment order was passed by the Faceless Assessment Center, the petition should not be entertained by the Allahabad High Court. However, the court

disagreed with this argument. The court emphasized that the residence of the assessee as per the PAN registration details is decisive for jurisdiction. Although the petitioner filed its return from Dholpur, Rajasthan, its PAN was registered within the state of U.P. Therefore, the court held that a vital part of the cause of action had arisen within U.P., and thus, the jurisdiction of the Allahabad High Court was not precluded. Furthermore, the court addressed the merits of the case. It noted discrepancies between the additions proposed in the show cause notice and those made in the assessment order. The assessment order exceeded the proposed additions, indicating an inadvertent mistake on the part of the assessing authority. As such, the court set aside the assessment order. Regarding the availability of alternative remedies, the revenue argued that the petitioner should seek redress through alternative forums. However, the court rejected this argument, stating that since the mistake in the assessment order was fundamental, pursuing an alternative remedy would not serve any useful purpose. Consequently, the court disposed of the petition, setting aside the assessment order and allowing the petitioner to treat the adverse findings in the order as points to be addressed in their response. The petitioner was given three weeks to furnish a final reply, after which a date for a personal hearing would be scheduled. The petitioner committed to appearing before the assessing authority on the designated date, after which an appropriate order would be passed. In summary, the Allahabad High Court's judgment in *Ziyauddin Traders vs Assessment Officer National Faceless Assessment Centre and Another* underscores the importance of jurisdictional considerations based on PAN registration details. Additionally, the court's decision reflects a commitment to rectifying fundamental errors in assessment orders and ensuring that parties have the opportunity to address adverse findings before the assessing authority.