

MAGAZINE

- Amnesty Scheme for time-barred tax appeal//B. SAIRAM, VAISHALI SAIRAM 25
- Taxability of service by way of Reinsurance of Specified Crop Insurance Schemes//SACHIN MISHRA, SIMRAN DHANER 27

CASE LAW

TABLE OF CASES REPORTED

- Anup Trade and Transport (P.) Ltd. v. Union of India (Gauhati) 424
- Badha Ram v. Intelligence Officer (Ker.) 431
- Bhattad Industries (P.) Ltd. v. State of Maharashtra (Bom.) 418
- Classic Engineering Enterprises v. Asstt. Commissioner (CT) (Mad.) 477
- Cuthbert Winner LLP v. Asstt. Commissioner of CGST (Delhi) 421
- Gunjan Bindal v. Commissioner of CGST (Delhi) 472
- Jain Brothers v. Union of India (Chhattisgarh) 446
- Jitendra Kumar Pathak v. State of Bihar (Patna) 499
- Micro Zone (A Sole Proprietorship Firm) v. Union of India (Patna) 415
- Millennium Impex (P.) Ltd. v. Addl. Commissioner (All.) 509
- Muthukumarasamy Murugadass v. Asstt. Commissioner of GST & CE (Mad.) 487
- Neha Agrawal v. Commissioner of CGST & CE (Bom.) 482
- Nemi Pharma Chem v. Addl. Commissioner of CGST & CX (Bom.) 436
- Nexus Motors (P.) Ltd. v. State of Bihar (Patna) 428
- Novateur Electrical and Digital Systems (P.) Ltd. v. Addl. Commissioner of State Tax (Punj. & Har.) 493
- Patliputra Hytech Infra (P.) Ltd. v. State of Bihar (Patna) 497
- Rajni Mittal v. AVATO (Delhi) 466
- Ram Krishna Mission Ashrama v. State of Bihar (Patna) 501
- Ramji Kirana Store v. State of U.P. (All.) 474
- Sakthi Fashions v. AA/Addl. Commissioner of GST (Appeals-II) (Mad.) 490
- Senior Intelligence Officer DGGI v. Narendra Rathi (Mad.) 439
- South Eastern Coalfields Ltd. v. Pr. Commissioner, CGST (Chhattisgarh) 479
- SPCX (P.) Ltd. v. State of Maharashtra (Bom.) 442
- Sri Mutharamman Traders v. State Tax Officer (Mad.) 504
- Star Publishers Distributors v. Asstt. Commissioner of CGST (Delhi) 469
- Trimurthi Fragrances (P.) Ltd. v. Government of National Capital Territory of Delhi (SC) 414
- Usha Martin Ltd. v. Dy. Commissioner of State Tax (Cal.) 506
- ◆ Zydus Lifesciences Ltd. v. CCE (SC) 411

SUBJECT INDEX

ADDITIONAL DUTIES OF EXCISE (GOODS OF SPECIAL IMPORTANCE) ACT, 1957

- Section 3 415

ADJUDICATION

- Natural justice - Failure to issue show cause notice [Section 73 of the Finance Act, 1994] - Adjudication order passed without notice and without affording opportunity of hearing to assessee set aside and matter remanded - *Muthukumarasamy Murugadass v. Asstt. Commissioner of GST & CE* (Mad.) 487

APPELLATE AUTHORITY

- Appeals to [Section 107 of the Central Goods and Services Tax Act, 2017] Where appeal filed by assessee challenging order passed by proper officer was dismissed by first Appellate Authority on ground that same was time barred, in view of fact that time for filing appeal against an order passed by proper officer was extended by CBIC by Notification No. 53/2023-Central Tax, instant appeal was to be restored to file of Appellate Authority subject to fulfilment of conditions of said notification *Micro Zone (A Sole Proprietorship Firm)* v. *Union of India* (Patna) **415**
- Benefit of amnesty provided under Notification No. 53/2023-Central Tax would be available in case of appeal filed against order passed at least three months prior to date of issuance *i.e.* 2-11-2023; fixing cut-off date of 31-3-2023 by notification was not proper *Nexus Motors (P.) Ltd. v. State of Bihar* (Patna) **428**
- Where assessee failed to respond to show cause notice issued for cancellation of it's registration and hence, registration was cancelled and in application for revocation of cancellation of registration assessee again failed to reply to show cause notice and, hence, revocation application was also rejected, instant appeal filed against impugned order with delay of 39 days, time taken in filing revocation application was liable to be excluded for computing limitation period *Sakthi Fashions v. AA/Addl. Commissioner of GST (Appeals-II)* (Mad.) **490**
- Extraordinary jurisdiction under article 226 of Constitution of India could not be invoked where assessee has not been diligent in availing alternate remedies within stipulated time *Jitendra Kumar Pathak* v. *State of Bihar* (Patna) **499**
- Statutory remedy of filing appeals having not been availed assessee could not seek to approach High Court under article 226 of Constitution of India to challenge assessment order when no jurisdictional error, violation of principles of natural justice or abuse of process of Court was averred or argued by petitioner *Ram Krishna Mission Ashrama* v. *State of Bihar* (Patna) **501**
- Assessee was permitted to present appeal again before appellate authority where appeal filed was dismissed for delay of 10 days in filing same *Sri Mutharamman Traders* v. *State Tax Officer* (Mad.) **504**

APPELLATE TRIBUNAL

- Appeals to [Section 112 of the Central Goods and Services Tax Act, 2017] Where Appellate Tribunal was not yet constituted and, hence, writ petition was filed against order passed by first appellate authority, assessee was permitted to take recourse to Appellate Tribunal obviating issue of limitation *Bhattad Industries (P.) Ltd.* v. State of Maharashtra (Bom.) 418
- Where assessee wanted to avail appellate remedy before Tribunal but Tribunal had not yet constituted, recovery was to be stayed till constitution of Tribunal on deposit of 20 per cent of tax in dispute *Patliputra Hytech Infra* (*P.*) *Ltd.* v. *State of Bihar* (Patna) **497**
- Constitution of, and benches [Section 109 of the Central Goods and Services Tax Act, 2017] Delay of 320 days in filing appeal having been sufficiently explained *i.e.* due to non-constitution of GST Tribunal, delay was to be condoned *Usha Martin Ltd.* v. *Dy. Commissioner of State Tax* (Cal.) 506

BIHAR GOODS AND SERVICES TAX ACT, 2017

- Section 107 416, 428, 500, 501

- Section 112 497

CENTRAL GOODS AND SERVICES TAX ACT, 2017

- Section 16 446
- Section 29 467
- Section 30 422
- Section 54 469
- Section 67 472
- Section 69 432, 439, 482
- Section 73 474, 477, 479
- Section 74 436
- Section 75 **443**
- Section 107 416, 428, 490, 500, 501, 504
- Section 109 507
- Section 112 419, 497
- Section 117 507
- Section 129 493, 507, 510

CENVAT CREDIT

Input service - Commission paid to foreign agents [Rule 2(*l*) of the Cenvat Credit Rules, 2004] - Where High Court itself had expressed doubt about manner under which CESTAT, in its order, had allowed Cenvat Credit on foreign agent's service by reversing orders of Adjudicating Authority, question as to whether commission paid to foreign agent was in relation to sales promotion or not for eligibility of Cenvat Credit, was to be remanded to CESTAT for reconsideration - *Zydus Lifesciences Ltd.* v. CCE (SC) 411

CENVAT CREDIT RULES, 2004

- Rule 2(*l*) **411**

CHHATTISGARH GOODS AND SERVICES TAX ACT, 2017

- Section 16 446
- Section 73 479

CIRCULARS & NOTIFICATIONS

- Notification No. 25/2012-S.T., dated 20-6-2012 425
- Notification No. 30/2012-S.T., dated 20-6-2012 487
- Circular No. 64/38/2018, dated 14-9-2018 493
- CBEC/20/16/03/2017-GST, dated 14-9-2018 510
- Notification bearing Order No. 9/2019-StateTax, S. O. 399, dated 11-12-2019 497
- Circular No. 135/05/2020-GST, dated 31-3-2020 419
- Notification No. 13/2022-Central Tax, dated 5-7-2022 469
- Notification No. 53/2023-Central Tax, dated 2-11-2023 416, 428

DELHI GOODS AND SERVICES TAX ACT, 2017

- Section 29 467
- Section 30 422

- Section 54 469
- Section 67 **472**

DEMANDS AND RECOVERY

- General [Section 75 of the Central Goods and Services Tax Act, 2017] Where statements of transporters were recorded during enquiry, same needed to be provided to assessee so that assessee could take appropriate plea before adjudication of show cause notice *SPCX* (*P*.) *Ltd.* v. *State of Maharashtra* (Bom.) 442
- Tax or input tax credit due not involving fraud misstatement or suppression [Section 73 of the Central Goods and Services Tax Act, 2017] Assessment order passed without hearing assessee and order-in-appeal passed without considering application for condonation of delay are not sustainable; matter was to be decided afresh *Ramji Kirana Store* v. *State of U.P.* (All.) **474**
- Where assessment order had not been served on petitioner and only a summary of same had been uploaded in web portal, an opportunity to file a statutory appeal was to be given to petitioner as disputed tax had been recovered *Classic Engineering Enterprises v. Asstt. Commissioner (CT)* (Mad.) **477**
- Where two show cause notices for same issue and same period were dropped by SGST Authority, third notice issued by CGST Authority for same issue and period would not violate principle of natural justice as CGST authorities had authority of law to issue such show cause notice *South Eastern Coalfields Ltd. v. Pr. Commissioner, CGST* (Chhattisgarh) **479**
- Tax or input tax credit involving fraud or misstatement or suppression [Section 74 of the Central Goods and Services Tax Act, 2017] Where request was made by assessee seeking 30 days time for making submissions and for personal hearing but without replying to assessee's request for adjournment/adjudication order was passed, principles of natural justice was violated; matter was to be readjudicated *Nemi Pharma Chem v. Addl. Commissioner of CGST & CX* (Bom.) **436**

DETENTION, SEIZURE AND RELEASE OF GOODS AND CONVEYANCES IN TRANSIT [SECTION 129 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017]

- On detention and seizure of goods and conveyance section 129 of CGST Act is not invocable for imposing penalty and demanding tax in cases of not mentioning vehicle number in e-way bill when procedural errors did not involve *mala fide* intention
 Novateur Electrical and Digital Systems (P.) Ltd. v. Addl. Commissioner of State Tax (Punj. & Har.) 493
- Where goods were being taken back to appellant's factory for repairs under a cover of challan and no allegation of evasion of duty was made against appellant, tax and penalty was not leviable on appellants even if E-way Bill had expired *Usha Martin Ltd.* v. *Dy. Commissioner of State Tax* (Cal.) **506**
- Penalty order was passed under section 129 on grounds that 'Part B' of e-way bill was not filled, since finding of fact, which was recorded against assessee could not be assailed, assessee could not be permitted to argue case beyond pleadings and accordingly, impugned order was to be upheld *Millennium Impex (P.) Ltd. v. Addl. Commissioner* (All.) **509**

FINANCE ACT, 1994

- Section 65(105)(zzp) **425**
- Section 73 487

GOODS TRANSPORT SERVICE

- Transporter of government corporation - Violation of natural justice [Section 65(105)(zzp) of the Finance Act, 1994] - Opportunity had not been provided for filing necessary documentary evidences; matter was to be remanded for fresh determination - *Anup Trade and Transport (P.) Ltd. v. Union of India* (Gauhati) 424

HARYANA GOODS AND SERVICES TAX ACT, 2017

- Section 129 493

INPUT TAX CREDIT

- Eligibility and conditions for taking credit [Section 16 of the Central Goods and Services Tax Act, 2017] - Provision contained in section 16(4) of CGST Act is violative of neither article 14 of Constitution nor articles 19(1)(g) and 300A of Constitution - Jain Brothers v. Union of India (Chhattisgarh) 446

KERALA STATE GOODS AND SERVICES TAX ACT, 2017

- Section 69 **432**

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017

- Section 69 482
- Section 74 **436**
- Section 75 **443**
- Section 112 419

PAN MASALA AND GUTKHA - TAXABILITY OF SALES TAX/VAT UNDER STATE LAWS

- Constitutional validity of [Section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957] - Levy of VAT/Sales tax on Pan masala and Gutkha by States is valid notwithstanding levy of Additional Duty of Excise - *Trimurthi Fragrances (P.) Ltd. v. Government of National Capital Territory of Delhi* (SC) 414

REFUND

- Tax, refund of [Section 54 of the Central Goods and Services Tax Act, 2017] - Where refund application was rejected on ground that same was filed beyond period of limitation and no documentary evidence was submitted regarding date on which export had taken place, since statement filed by assessee clearly indicated date of shipping bills and invoices, impugned order was to be set aside and authorities were to be directed to process refund application - *Star Publishers Distributors v. Asstt. Commissioner of CGST* (Delhi) 469

REGISTRATION

- Cancellation of [Section 29 of the Central Goods and Services Tax Act, 2017] - Where revenue was informed about demise of taxpayer and stoppage of business, question of filing returns after demise did not strictly arise and registration of deceased taxpayer was to be cancelled from date of application filed by legal heir - *Rajni Mittal* v. *AVATO* (Delhi) 466
- Revocation of cancellation of [Section 30 of the Central Goods and Services Tax Act, 2017] Where assessee had filed application for change of address in GST records and had furnished documents regarding same, but its registration was cancelled on ground that assessee was non-existent at registered address; application for revocation of cancellation could not be delayed by department seeking new plea of reconciliation of discrepancy in ITC claim *Cuthbert Winner LLP v. Asstt. Commissioner of CGST* (Delhi) **421**

SEARCH, SEIZURE, ETC.

- Power of inspection, search and seizure [Section 67 of the Central Goods and Services Tax Act, 2017] - Even where source of seized cash could not be satisfactorily explained by assessee, same was to be refunded - *Gunjan Bindal v. Commissioner of CGST* (Delhi) 472
- Power to arrest [Section 69 of the Central Goods and Services Tax Act, 2017] -Where on search, it was found that assessee had suppressed huge turnover and after search was conducted, software used at his business premises was changed immediately and Accountant of firm was also dismissed from service, department had correctly suspected that accused was tampering with evidence and influencing witnesses; in

view of fact that investigation was going on, bail could not be granted - *Badha Ram* v. *Intelligence Officer* (Ker.) **431**

- An order granting or denying bail can never be looked upon as sufficient material for passing a Judgment of either conviction or acquittal; Additional Chief Metropolitan Magistrate [E.O.I] should overlook any observations made by Principal Sessions Judge while granting bail - Senior Intelligence Officer DGGI v. Narendra Rathi (Mad.) 439
- Where assessee had allegedly availed ITC wrongfully as it pertained to a supplier whose registration was cancelled, but order of cancellation of registration pertaining to said supplier was quashed by court, since allegation of wrongful availment in respect of a major component of input tax credit become debatable, custodial interrogation was not warranted and, hence, bail was to be granted - *Neha Agrawal v. Commissioner of CGST & CE* (Bom.) **482**

TAMIL NADU GOODS AND SERVICES TAX ACT, 2017

- Section 69 439
- Section 73 477
- Section 107 490, 504

UTTAR PRADESH GOODS AND SERVICES TAX ACT, 2017

- Section 73 474
- Section 129 510

WEST BENGAL GOODS AND SERVICES TAX ACT, 2017

- Section 109 507
- Section 117 507
- Section 129 507

WORDS AND PHRASES

 Expression 'any person' as occurring in section 69 of CGST/Kerala State GST 432

