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**Weekly
GST Case
Insights**



Case Scenario:1

Andhra Pradesh High Court: Absence of Assessing Officer's Signature Renders Assessment Order Invalid

The petitioner challenged an assessment order in Form GST DRC-07 for 2020-21, citing the absence of the Assessing Officer's signature. The court referenced previous judgments, including *A.V. Bhanoji Row v. Assistant Commissioner (ST)* and *SRS Traders v. Assistant Commissioner (ST)*, which held that unsigned assessment orders are invalid. Following these precedents, the court set aside the impugned order, allowing the department to reissue a fresh order with due notice and signature.

**Arikatia Venkateswarlu v. Assistant Commissioner St
R. RAGHUNANDAN RAO AND MAHESWARA RAO KUNCHEAM, JJ. WRIT
PETITION NO: 24449 OF 2024**

Case Scenario:2

Bombay High Court: Refund application rejection overturned as COVID period exclusion applies per Notification No. 13/2022-Central Tax

The petitioner's refund application was rejected as it was not filed within the two-year limitation under Section 54(1) of the CGST Act. However, Notification No. 13/2022-Central Tax, dated 5-7-2022, excluded the period from 1-3-2020 to 28-2-2022 from the limitation calculation. The petitioner argued that, considering this exclusion, the refund application was within the prescribed time. The court accepted this contention, set aside the rejection order, and directed the Deputy Commissioner to reprocess the refund application on merits, without raising the issue of limitation.

**HIGH COURT OF BOMBAY Pooja Engineering Co. v. State of Maharashtra
B.P. COLABAWALLA AND FIRDOSH P. POONIWALLA, JJ. WRIT PETITION NO.
2927 OF 2024**

Case Scenario:3

Calcutta High Court: Penalty order upheld due to inconsistencies in documents and missing tax invoice.

The petitioner from Mumbai purchased a second-hand car from Shifting Gears, Assam, which was originally bought from Marto Lollen in Arunachal Pradesh, intended for delivery in Haryana. The vehicle was intercepted in West Bengal, detained under Section 129(1) of the WBGST Act, and a penalty of Rs. 33,82,000 was imposed under Section 129(3). The petitioner's documents, including the invoice and e-way bill, were contradictory: the e-way bill showed transportation from Marto Lollen in Assam to Marto Lollen in Haryana, while the petitioner claimed supply from Shifting Gears to Mumbai. No tax invoice was found during interception, and discrepancies in tax payment and ITC claims emerged. The court upheld the penalty, finding no illegality in the detention process, as the petitioner failed to substantiate claims and documents conflicted.

Gurbux Singh Gupta v. State of West Bengal
KRISHNA RAO, J. WPA NO. 1219 OF 2023

Case Scenario:4

Bombay High Court: Upholds Show Cause Notice, Declines Interference, Leaving Tax Rate on Discount as Service Supply for Adjudication.

The petitioner challenged a show cause notice dated August 6, 2024, claiming it contradicted an Advance Ruling in their favor from October 7, 2019. The respondent authorities argued the notice was unrelated to the ruling, asserting that a 5% discount given by the petitioner to the owner constituted a taxable supply of service, supported by the petitioner's admission during investigation. The Bombay High Court declined to interfere at the notice stage, holding that whether the notice aligned with the Advance Ruling and the applicable tax rate were matters for adjudication by the authorities. The court disposed of the writ petition, directing the petitioner to file a reply within four weeks and the authorities to adjudicate within twelve weeks, keeping all contentions open.

Safset Agencies (P.) Ltd. v. Union of India

B.P. COLABAWALLA AND FIRDOSH P. POONIWALLA, JJ. WRIT PETITION NO. 4609 OF 2024

Case Scenario:5

Allahabad High Court: GST Order Under Section 73 Quashed for Violating Natural Justice Due to Lack of Hearing, Remanded for Fresh Consideration

The petitioner challenged an order dated December 22, 2023, under Section 73 of the Uttar Pradesh GST Act and the dismissal of their appeal on August 30, 2024, for being time-barred. They argued no hearing was granted before the assessment order, despite Section 75(4) requiring it. Revenue's records showed "N.A." against the hearing date, confirming no hearing occurred. The court found this a clear violation of Section 75(4) and natural justice principles. Both impugned orders were quashed, and the matter was remanded to the Assessing Authority for fresh consideration after providing a proper hearing. The writ petition was disposed of in the petitioner's favor.

Chaudhary Associates v. State of U.P.

PANKAJ BHATIA, J. WRIT TAX NO. - 250 OF 2024

Case Scenario:6

Allahabad High Court: ITC Order Under Section 74 Quashed for Denying Hearing, Violating Natural Justice and Section 75(4) Mandate

The petitioner challenged a Section 74 GST order dated March 25, 2023, creating a demand of Rs. 2,11,02,438 for availing ITC by mistake in 2017-18, and the dismissal of their appeal on December 4, 2024, for being time-barred. Despite requesting an adjournment and personal hearing due to their advocate's illness, no hearing was granted, with notices marking hearing details as "NA." The court found this a violation of Section 75(4), mandating a hearing for adverse decisions, and natural justice principles. Both orders were quashed, and the matter was remanded to the Assessing Authority for fresh consideration after providing a hearing and allowing a reply to the show-cause notice.

**Integra Micro Systems (P.) Ltd. v. State Of U.P.
PANKAJ BHATIA, J. WRIT TAX NO. - 376 OF 2024**

Case Scenario:7

Madras High Court: Revenue's Non-Speaking Order Rejecting ITC Reconciliation Set Aside, Matter Remanded for Fresh Consideration.

The petitioner, a registered dealer under TNGST/CGST Acts, challenged an order dated August 6, 2024, confirming a demand of Rs. 7,25,094 under Section 73 for a mismatch between GSTR-2A and GSTR-3B for 2019-20. The revenue issued a show-cause notice without prior GSTASMT-10 intimation, alleging suppression. The petitioner submitted a reconciliation report showing an excess ITC of Rs. 1,40,684 after adjustments, but the revenue rejected it with a one-line, non-speaking order. The court found this rejection lacked reasoning and violated natural justice. The impugned order was set aside, and the matter was remanded for fresh consideration within four weeks.

R A Metal Finishers (P.) Ltd. v. State Tax Officer

MS. P.T. ASHA, J. W.P.NO.36706 OF 2024 W.M.P.NOS.39607 & 39608 OF 2024

Case Scenario:8

Rajasthan High Court: Hotel Operator's Section 73 Notice Quashed as Revenue Accepted ITC Explanation Under Section 61, Barring Further Proceedings.

The petitioner, a hotel operator, faced scrutiny under Section 61 for availing ITC on elevators and air conditioners for 2017-18, deemed ineligible under Section 17(5). After explaining these as essential "plant and machinery," the revenue accepted the response via Form GST ASMT-12, yet issued a Section 73 show-cause notice. The court ruled that Section 73 proceedings, based solely on Section 61 discrepancies, were impermissible once the explanation was accepted, violating Section 61(2). The notice and related assumptions were declared illegal and set aside, allowing the petition.

**Goverdhandham Estate (P.) Ltd. v. State of Rajasthan
MANINDRA MOHAN SHRIVASTAVA, ACTG. CJ. AND MRS. SHUBHA MEHTA, J.
D.B. CIVIL WRIT PETITION NO.16702 OF 2023**

Case Scenario:9

Madras High Court: ITC Disallowance Order Set Aside for Lack of Reasoning and Specific Section 17(5) Clause Citation.

The petitioner challenged an order dated August 27, 2024, disallowing ITC under Section 17(5) of the GST Act, arguing the notice lacked specific reasons or clauses justifying the denial. Engaged solely in trading, the petitioner claimed no inputs were used for personal consumption or construction, offering to produce tax invoices. Despite this, the revenue passed the impugned order without specifying the applicable Section 17(5) clause, rendering the hearing ineffective. The court set aside the order for violating natural justice, directing the revenue to issue a fresh notice with clear grounds, allowing the petitioner a fair response and hearing. The writ petition was disposed of in the assessee's favor.

Dhanalakshmi Steels v. Assistant Commissioner (ST)
MOHAMMED SHAFFIQ, J. W.P. NO.38730 OF 2024 W.M.P.NOS.41935 AND 41936 OF 2024

Case Scenario:10

Orissa High Court: ITC Disallowance Order Set Aside for Lack of Reasoning and Specific Section 17(5) Clause Citation.

The petitioner, aggrieved by a September 16, 2023, order from the First Appellate Authority, sought to appeal to the Tribunal, which was yet to be constituted. Citing the Orissa High Court's ruling in Maa Tarini Traders, the petitioner requested a stay on the order. The court, noting a recent State notification aligning with Central revenue's reduction of the deposit to 10% of disputed tax, granted the stay subject to this deposit. The writ petition was disposed of in the assessee's favor, following precedents addressing the non-constitution of the Tribunal under Section 112 of the GST Act.

**Rajesh Swain v. Joint Commissioner of State Tax (Appeal) CT and GST
ARINDAM SINHA AND M.S. SAHOO, JJ. W.P.(C) NO.69 OF 2025**

Case Scenario:11

Gauhati High Court: SCN and Order Set Aside for Lack of Proper Notice, Authentication, Reasoning, and Denied Hearing.

The petitioner challenged a summary order (GST DRC-07) dated December 30, 2023, issued after a summary SCN (GST DRC-01) on September 30, 2023, lacked a proper SCN and officer authentication under Rule 26(3A). Only a tax determination statement was attached, without reasons, and despite requesting a hearing via GST DRC-06, none was granted. The court ruled that the summary SCN couldn't replace a proper SCN under Section 73(1), lacked mandatory authentication, and violated natural justice by denying a hearing. The order was set aside, with liberty granted for de novo proceedings, excluding the litigation period from time limits.

Dihingia Motors (P.) Ltd. v. Union of India
SOUMITRA SAIKIA, J. WP(C) NO.5853 OF 2024