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TAX ROOM

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Taxation Law Practice

Our taxation law practice delivers comprehensive advisory and dispute resolution support across direct and indirect tax law regimes, combining technical rigour with commercial pragmatism.

We advise individuals, businesses, promoters, and investors on legal handling, tax structuring and compliance strategy.

We regularly act in tax matters, representing clients before tax authorities, appellate tribunals, and courts, and assist in enforcement actions with a focus on outcome-driven strategy.

GOODS AND SERVICES TAX

1 EXCESS DEMAND CONFIRMED BEYOND SHOW CAUSE NOTICE: ORDER SET ASIDE AND MATTER REMITTED FOR FRESH ADJUDICATION

Ms Tirumala Milk Products Pt. Ltd. vs. State Tax Officer Group I, Chennai | High Court of Madras

This publication summarises significant judicial and quasi-judicial developments in GST and direct taxation laws for the month under review. The digests are prepared for the purposes of legal education and professional reference and do not constitute legal advice. Readers are advised to consult the original orders before placing reliance on any proposition stated herein.

An adjudicating authority is without jurisdiction to confirm a demand exceeding the amount proposed in the show cause notice. Where an impugned order confirms a higher demand than that specified, the order cannot stand and must be set aside.

Statutory adjudication is bounded by the notice that initiates it. A respondent is entitled to respond only to the case put to it; any enlargement of the proposed demand without fresh notice constitutes a breach of natural justice. The impugned order may be treated as an addendum to the original notice, provided the petitioner is afforded an opportunity to reply to the enlarged demand.

2 RESTORATION OF GST REGISTRATION UPON COMPLIANCE WITH RULE 22(4) PROVISIO: AUTHORITIES TO ACT WITHIN COURT-STIPULATED TIMEFRAME

Sanjaiso Halai vs. Union of India & The Superintendent CGST and SGST Department Namsai Range | High Court of Gauhati

A registered person whose registration has been cancelled under Section 29(2)(c) of the CGST Act is entitled to seek restoration upon compliance with the proviso to Rule 22(4) of the CGST Rules.

The statutory scheme provides a clear remedial pathway: the applicant must furnish all pending returns, discharge outstanding tax liability together with applicable interest and late fees, and file Form GST REG-20. On such compliance, the cancellation proceedings shall be treated as dropped and the registration restored. The Court relied on the statutory scheme and a coordinate Bench precedent in directing authorities to act.

Petitioner directed to comply with Rule 22(4) proviso. Authorities directed, upon receipt of a compliant application, to take all necessary steps to restore the registration within the timeframe prescribed by the Court.

3 SHOW CAUSE NOTICE PROCEEDINGS VITIATES AFTER TAXPAYER'S DEATH

Vinay Hiroo Thadani vs. Deputy Commissioner of CGST and Central Excise & Ors. | High Court of Bombay

Where GST recovery proceedings and consequent orders post-date the death of the registered taxpayer and the authority's order discloses no reasons and fails to address the petitioner's reply, the proceedings are procedurally infirm.

The foundational requirement of procedural fairness demands that an affected party have a genuine opportunity to be heard and to obtain the documents on which the authority relies. Proceedings conducted and orders passed without these safeguards particularly where the named assessee is deceased cannot be sustained without a fresh opportunity.

Petitioner entitled to a fresh hearing before the competent GST authority. Authority directed to pass a fresh order in accordance with law. Substantive challenges to the applicable statutory provisions are expressly reserved and remain available for consideration in the fresh proceedings.

4 RETROSPECTIVE CANCELLATION INVALID ABSENT NOTICE; RELIED-UPON DOCUMENTS MUST BE SUPPLIED; NON-SPEAKING ORDERS UNSUSTAINABLE

M/s. Jordan Enterprises vs. Union of India and Ors. | High Court of Punjab & Haryana at Chandigarh

The show cause notice is the jurisdictional foundation of the adjudication. The authority is confined to the case it has put in that notice. Where retrospective cancellation is not proposed, it cannot be ordered. Equally, the right to respond is rendered illusory unless the supporting material is disclosed. An order must speak for itself bare conclusions without reasoning are insufficient.

Three distinct principles were confirmed: (i) retrospective cancellation of GST registration is permissible only where expressly proposed in the show cause notice and supported by reasons and material; (ii) a notice must supply or specifically identify the documents relied upon so as to enable a meaningful response; and (iii) a cryptic, non-speaking cancellation order that discloses no application of mind is legally unsustainable. Retrospective cancellation held invalid. Proceedings vitiated by non-supply of relied-upon documents.

5 TAXABILITY OF LEASEHOLD ASSIGNMENT QUESTIONED; INTERIM STAY GRANTED ON RECOVERY AND

ADJUDICATION PENDING FINAL DISPOSAL

Swastik Processor vs. Union of India & Ors. | High Court of Bombay

The question whether the assignment or transfer of leasehold rights including leasehold land with building constitutes a taxable supply under the GST charging provisions is a live and contested issue, on which coordinate High Court decisions have held that such assignments do not constitute taxable supplies.

In the absence of a stay by the Supreme Court on those earlier rulings, the question remains at large and petitioners raising the issue in pending proceedings are entitled to interim protection against coercive recovery.

6 VALUATION OF GOODS IN TRANSIT RESERVED FOR ASSESSING AUTHORITY; CHECK-POST OFFICERS LACK JURISDICTION; SEIZED GOODS RELEASED PENDING ADJUDICATION

Golden Traders and Ors., M/s. T.M. Enterprises, Al Badar Spices, M/s. R.G Traders and Others, M/s. Shiva Traders and Ors., Iqbal Deen and Ors., BJ Kumar and Ors., Mr. Suresh Kumar and Ors., M/s. Sreekrishna Traders vs. The Deputy Assistant Commissioner of State Tax and Ors. | High Court of Madras

Valuation of goods in transit cannot be conclusively determined at roadside check posts under the GST regime. Such valuation is a function vested in the jurisdictional assessing authority. Reliance on external valuations conducted without the participation of the consignor is impermissible.

Where seizure or confiscation proceedings disclose substantive and procedural defects including an unreported prior inspection, an e-Way Bill generated after inspection, and failure to comply with online reporting obligations the foundational basis for detention is invalidated. Tripartite sealed sampling is the prescribed procedure for adjudication purposes.

7 MATERIALS SUPPLIED FREE OF COST BY SERVICE RECIPIENT EXCLUDED FROM GST VALUATION OF TAXABLE SUPPLY

M/s. Balaji Ready Mix Concrete vs. Union of India | High Court of Bombay

Materials supplied free of cost by a service recipient for the manufacture of site-mix or ready-mix concrete are not includable in the value of the taxable supply. Such materials, being provided without

consideration, are not a supply for the purposes of the GST charging framework.

Section 15(2)(b) of the CGST Act and Circular No. 47/21/2018-GST together establish that components provided free of cost by the recipient do not form part of the gross value on which GST is leviable. The supplying entity is entitled to exclude such material from its taxable value. Free-supplied goods held non-exigible to GST. Value of free-supplied materials excluded from the taxable value of the supply.

DIRECT TAX

1 AMENDMENT COMMENCING ON FIRST DAY OF ASSESSMENT YEAR APPLIES TO INCOME OF THE PRECEDING FINANCIAL YEAR

Mcleod Russel India Ltd. vs. The State of Assam & Ors. | High Court of Bombay

The Assam amendment introducing Section 8B, notified with effect from 1 April 2009, governs agricultural income earned during financial year 2008–2009, which constitutes the previous year for assessment year 2009–2010.

The law in force at the commencement of an assessment year governs the assessment for that year unless a contrary retrospective intent is express or necessarily implied. Because the amendment took effect on the first day of assessment year 2009–2010, it constitutes the operative law for that assessment year and therefore applies to income of the previous financial year 2008–2009. Section 8B of the Assam amendment held applicable to agricultural income of financial year 2008–2009.

2 TWENTY-NINE-DAY DELAY IN FILING AUDIT REPORT CONDONED;**CHARITABLE EXEMPTION CLAIM TO BE CONSIDERED ON MERITS**

Rotary Club of Bombay Queens Necklace Charitable Trust vs. ITO (Exem.) Ward 2 (2), Mumbai

A delay of 29 days in filing Form No. 10B the audit report required to support a claim for charitable exemption under the Income-tax Act was condoned, and the assessing officer directed to consider the claim on its merits.

The requirement to file an audit report is procedural in nature. Substantial compliance suffices where the delay is brief, adequately explained, not mala fide, and the audit report was available and ready before the completion of the assessment under Section 143(1). Procedural non-compliance of this character does not disentitle an assessee to the underlying substantive benefit.

3 SECTION 148 NOTICE ISSUED AFTER THREE YEARS INVALID FOR WANT OF APPROVAL BY PRESCRIBED AUTHORITY UNDER SECTION 151

Arihant Agrifoods Pt. Ltd., C/o Dr. Kapil Goel vs. ITO, Ward-3 (1), Delhi

A notice issued under Section 148 of the Income-tax Act more than three years after

the end of the relevant assessment year is invalid where the requisite approval has been granted by a Principal Commissioner rather than the authority specifically prescribed under Section 151.

Where the notice is issued beyond the three-year period, Section 151 mandates approval by a particular specified authority. Approval by a Principal Commissioner does not satisfy this requirement; the two are not equivalent for statutory purposes. Absence of valid approval under Section 151 goes to the validity of the notice itself.

4 REVISION UNDER SECTION 263 NOT WARRANTED WHERE ASSESSING OFFICER APPLIED MIND AND ADOPTED REASONABLE VALUATION: REVISION SET ASIDE

Sh. Chandra Prakash Goel Prop. M/s Chandra Bricks Field vs. Pr. CIT, Ghaziabad, Uttar Pradesh

The exercise of revisionary jurisdiction under Section 263 is not warranted where the assessing officer considered the relevant material including circle rates and a registered valuer's report applied his mind to the question, and arrived at an estimative fair market value for capital gains purposes.

Revision under Section 263 is permissible only when the twin statutory conditions are concurrently satisfied: the assessment order must be both erroneous and prejudicial to the interests of the Revenue. A post facto preference for the opinion of the District Valuation Officer over the considered estimate of the AO does not demonstrate error of the requisite character. Explanation 2(a) does not operate where the AO has genuinely inquired into the matter.

5 RECTIFICATION UNDER SECTION 154 REQUIRES FACTUAL VERIFICATION OF REFUND RECORDS BEFORE DEMAND CAN BE CONFIRMED

Span Air Pt. Ltd. vs. ACIT Circle 22 (2), New Delhi

A rectification order under Section 154, which alters a refund or credit position and raises a demand, cannot be confirmed where the record discloses conflicting entries between the original intimation and the rectification, and there has been no verification of whether an excess refund was in fact issued.

A rectification demand presupposes the existence of an actual error apparent on the record. Before such a demand can stand, the assessing officer must verify the

underlying refund records to ascertain whether any excess refund was actually granted. In the absence of such verification, the demand has no established factual foundation.

Matter restored to the assessing officer for de novo verification of refund records. If verification confirms no excess refund was issued, the demand must be withdrawn.



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