TATTVAM ADVISORS

Volume -XXXII

August – 2023 Consolidated

Legal Zine

A weekly digest of important rulings and latest GST updates

MORE INFO VISIT:
www.tattvamadvisors.com

About Us

- Dealing in Indirect Tax Law – Litigation / Advisory / Audits / Compliances
- Founded and led by Partners having experience in leading firms (**LKS / Big 4s**)
- Team of more than **60 peoples**
- Serving more than **150 Corporates/MNCs** across various sectors.
- Knowledge partner of **PHD Chamber**, **Webtel Electrosoft** etc
- Recognised by **ECONOMIC TIMES** for contribution in the field of **Finance and Taxation**
- Awarded by **Achromic Point** as "**Indirect Tax Consulting Firm of the Year**" and **"Best Investigation Team"**

ACHROMIC POINT®

© Tattvam Advisors, All rights reserved

TATTVAM ADVISORS

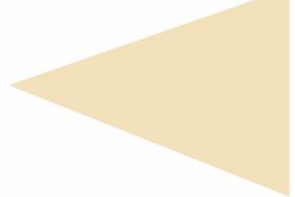


TABLE OF CONTENT

1. JUDICIAL PRONOUNCEMENTS 6

a) Audit under section 65 of the CGST cannot be conducted after the closure of the business 6

b) E-way not required for movement of goods within a state even if it has to pass through another state for a short distance 7

c) Services provided as principal service provider cannot be treated as intermediary services 7

d) Entire GST refund claim cannot be denied merely on account of non-existence of one supplier 9

e) Limitation period of two years for filing a refund would stop where the claim is filed with accompanied documents and further documents are sought to satisfy the refund claim 10

f) Delay in filing of an appeal on account of attachment of bank account is condonable. 11

g) Assessment order uploaded on the GST portal is a mode of intimation and such intimation cannot be challenged merely because order was not served physically 13

h) Refund cannot be withheld merely on the ground that the application for the same was not submitted on GST portal due to technical glitches 14

i) Amount paid during search cannot be considered as a self-ascertainment 15

j) Proper officer shall not cancel the GST registration without providing an opportunity of personal hearing 16

k) Order passed by the Commissioner (Appeals) shall always be binding on the Assistant Commissioner 18

l) Voluntary deposit made under protest during adjudication to be treated as part of pre-deposit for filing an appeal 19

m) Officer cannot confiscate the purchaser goods merely on the ground that supplier’s has obtained the GST registration by producing fake documents 21

n) Revenue cannot insist the assessee to pay alleged amount until and unless adjudication is finalised or inquiry is still going on 22

o) Offline appeals filed due to the technical glitches on GST portal cannot be rejected ... 23

p) ITC shall not be allowed to the purchasing dealer in case tax is not paid to the government by the supplier 24

q) Department cannot seize cash during the investigation that does not form part of stock in trade 25

r) Freezing of bank account by letter without any authority or order of commissioner is not valid 26

s) Cancellation of GST registration without ascribing any reason is cryptic in nature 27

t) Opportunity to rectify procedural defects in appeal to be provided before deciding the appeal on merits 28

u) ITC cannot be denied to recipient without due investigation of supplier 30

v) Post decisional hearing should be given in case of blocking of input tax credit in electronic credit ledger as per Rule 86A of CGST Rules 32

w) Non-issuance of notice under section 61 would not affect the validity of proceeding initiated under Section 74 of the CGST Act 33

x) Rejection of refund application without providing an opportunity of hearing is violation of principle of natural justice 34

y) Service tax not applicable on storage services provided by foreign entity in warehouse located outside India even though the actual benefit has been received in India 35

z) CENVAT credit allowed in respect of manuals essential for the activities undertaken by the assessee 36

aa) No service tax payable on development of own land before selling as it amounts to self-service. Further, development of land on behalf on landowner is liable to service tax 38

bb) General Power of Attorney does not confer any legal title or possession as the sale deed is executed by the landowners 39

2. AAR/AAAR 41

cc) No exemption on supply of education and training services to commercial pilots as per the training curriculum when not recognised under any law 41

dd) Common credit availed liable to be reversed on account of sale of alcoholic liquor for human consumption 43

ee) Multiple transfers within the FTWZ are not covered under Schedule III of the CGST Act as it is not a warehouse licensed under Customs Act 45

ff) ITC allowed on services of renting of motor vehicles used for transportation of women employees as made obligatory under the law 47

gg) Services provided to Government Authority are taxable @ 18% w.e.f. 01.01.2022 49

hh) Supply of information technology enabled services rendered to recipient qualifies as export of services and inturn are zero rated 52

ii) Services of advancement of spirituality and yoga do not qualify for exemption under charitable activity or educational services 54

jj) Taxable value does not include the cost of material and execution work borne by the customer 56

kk) Availment of ITC is barred if the Demo vehicles retained as a replacement vehicles in the workshop 58

3. INSTRUCTION/ CIRCULAR 61

ll) GSTN Advisory: Mera Bill Mera Adhikaar Scheme 61

mm) Introduced Electronic Credit Reversal and Re-claimed statement on GSTN 61

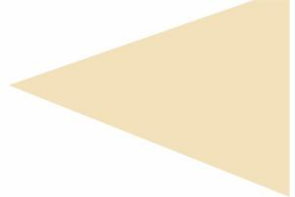
nn) CGST (Amendment) Bill, 2023 62

oo) IGST (Amendment) Bill, 2023 63

pp) Recommendations of 51st GST Council Meeting 63

qq) Clarifications regarding applicability of GST on canteen and director services 64

rr) Maharashtra: Extended the time limit to file Annexure-I in respect of appeal to be filed before Appellate Tribunal 65



1. JUDICIAL PRONOUNCEMENTS

a) Audit under section 65 of the CGST cannot be conducted after the closure of the business

(M/s TVL Raja Stores Vs the Assistant Commissioner (ST), Madurai,2023-VIL-582-MAD)

Facts:

- The petitioner submitted the application before the authorities with regard to the cancellation of their registration wherein the authorities allowed the petitioner to close his business with effect from 31.03.2023.
- However, the petitioner failed to pay the collected tax. Subsequently, respondent issued the SCN dated 19.05.2023 for conducing the audit.
- Further, the petitioner challenged the validity of SCN before the Hon'ble HC by filing writ petition.
- The contention before the Hon'ble HC was that respondent are empowered to conduct audit if the concern is registered unit and however, petitioner registration is cancelled. Hence, he is an unregistered concern.
- Accordingly, respondent does not have any jurisdiction to conduct an audit to the unregistered concern whose registration has been cancelled.

Held:

- On a bare perusal of the section 65 of the CGST Act, it can be inferred that audit can be conducted to the registered persons "for such period", "for such frequency" and "in such manner".
- The said section specifically states that 'any registered person' then it ought to be construed as existence concern and unregistered person is exempted from the said section.
- Section 65 of the CGST Act, provides the periodical audit and the respondent has failed to conduct the audit for the period from 2017 to 2022 when the petitioner was registered under the GST law.
- Accordingly, impugned order is liable to be quashed with liberty to initiate proceeding under section 73 and 74 of the CGST Act.

b) E-way not required for movement of goods within a state even if it has to pass through another state for a short distance

(M/s J.K Cements Ltd Vs. State of U.P, 2023-VIL-581-ALH)

Facts:

- The petitioner was transporting the goods from Gwalior (M.P) to Panna, (M.P), as it is intra state supply and therefore, transportation of goods was exempted from provisions of e-way bill.
- However, it may be noted that the subject goods which was being transported as intra-state passes through the State of Uttar Pradesh for short distance.
- The said goods were intercepted during the transit on the ground that e-way bill was not accompanying the goods.
- On the said basis, impugned order passed under section 129(3) of the CGST Act by which penalty was imposed upon the petitioner.
- Petitioner filed the appeal before the Appellate Authority wherein same was dismissed.
- Thereafter, petitioner filed the writ petition before the Hon'ble HC.

Held:

- It is not in dispute that the said goods were originating from Gwalior, M.P and to be terminated at Panna, M.P.
- Further, on perusal of the impugned order passed by the Appellate Authority, it is categorically mentioned that origination and termination of the goods is in state of M.P meaning thereby, the goods were not to be unloaded in the State of UP or any intention to evade tax.
- Merely because the goods were not accompanying the e-way bill, the seizure ought not to have been made as in the case, said goods were exempted from carrying the e-way bill at the relevant point of time.
- Accordingly, the impugned order is liable to be set aside and amount deposited during the pendency of the case are liable to be refunded to the petitioner.

c) Services provided as principal service provider cannot be treated as intermediary services

(M/s Boks Business Services Pvt Ltd Vs Commissioner of Central Goods and Services Tax Delhi South, 2023-VIL-579-DEL)

Facts:

- The petitioner was engaged in the business of providing book-keeping, payroll and accounting services through use of cloud technology to its affiliated entity incorporated in UK.
- The petitioner filed the refund application of unutilized ITC in respect of export of services and however, same was rejected by issuance of SCN on account of intermediary services.
- The petitioner replied the SCN by explaining the nature of the services and however, explanation was not accepted and passed an order.
- Feeling aggrieved by the order, the petitioner preferred and appeal which were disposed by the Appellate Authority.
- Accordingly, the petitioner filed the writ petition before the Hon'ble HC

Held:

- On a bare perusal of the agreement, it is clear that petitioner is not an intermediary, inasmuch, as the petitioner is neither facilitating the provision of services by third entity nor acting as middlemen for procuring the services.
- In the instant case, the petitioner has entered in to contract to provide the services and is the principal service provider in the context of the services provided by it.
- In the present case, the agreement uses the word 'agent' but it is clear that petitioner is not acting as an agent for procurement of services for the service recipient.
- It is in fact, providing the principal service of "Bookkeeping, Payroll, and accounts, through the use of cloud technology". The fact that such services may be for the clients of the petitioner's affiliate, Boks Business Services Limited, does not make the petitioner an "intermediary".
- The same issue is squarely covered in the case of **M/s Ernst and young Limited Vs. Additional Commissioner, CGST-2023-VIL-190-DEL,** and

M/s Cube Highways and Transportation Assets Advisor Pvt Ltd. Vs Assistant Commissioner CGST Division-2023-VIL-547-DEL.

- Accordingly, in view of the judgment produced hereinabove, the Hon'ble Court set aside the order and directed the respondent to process the petitioner's claim for refund.

d) Entire GST refund claim cannot be denied merely on account of non-existence of one supplier

(M/s Soldium and Stars Guild LLP Vs Commissioner, Central Tax, Appeals-II, Delhi,2023-VIL-578-DEL)

Facts:

- The petitioner had filed an application for claiming refund related to the ITC in respect of goods exported during the period from November 2020 to March 2021.
- The Adjudicating Authority issued a SCN proposing to reject the refund application on the ground that one of the suppliers have been reported as non-existent and mismatch in invoice and FOB values.
- The petitioner replied the SCN enclosing the details of the purchase vendor and their respective GSTIN.
- However, Adjudicating Authority denied the refund application by passing an impugned order and alleged that one of the supplier, named M/s Sidhi Impex is non-existent at their registered place of business.
- Thereafter, petitioner preferred an appeal wherein the said appeal was rejected.
- Feeling aggrieved by the rejection order passed by the appellate authority, the petitioner filed the writ petition before the Hon'ble HC.

Held:

- Pursuant to the non-existent of the M/s Siddhi Impex is concern, the petitioner voluntarily deposited the amount of Rs. 21,76,260/- in its electronic credit ledger.
- Further, there is no irregularity in respect of the supplies made by the suppliers other than M/s Siddhi Impex.

- Neither the Adjudicating Authority nor the Appellate Authority has raised any doubt in respect of the supplies received from other than M/s Siddhi Impex.
- Notably, petitioner is entitled to get the refund of ITC in respect of inputs received from other suppliers.
- Accordingly, the Hon'ble HC set aside the order passed by the Appellate Authority and directed to process the refund amount along with interest.

e) Limitation period of two years for filing a refund would stop where the claim is filed with accompanied documents and further documents are sought to satisfy the refund claim

(M/s National Internet Exchange of India Vs UOI, 2023-VIL-571-DEL)

Facts:

- The petitioner filed the refund application in respect of zero-rated supplies in terms of Section 54 of the CGST Act read with Rule 89 of the CGST Rules.
- The petitioner was required to file the refund application within two years from the date of the invoice, which in the present case is 31.10.2017.
- The petitioner was issued deficiency memos which are as follows:
  - First deficiency memo was issued dated 21.10.2019, wherein petitioner rectified the said defects and refiled the refund application on 31.10.2019
  - Second deficiency memo was issued dated 11.11.2019 wherein the petitioner rectified the said defects and refiled the refund application on 20.02.2020.
  - Third deficiency memo was issued dated 14.09.2020, wherein the petitioner rectified the said defects and re-filed the refund application dated 02.11.2020.
- Thereafter, respondent issued a SCN on the ground that refund application is filed after the two years and, once the deficiency memo has been issued then refund application would not be further processed and fresh application was required to be filed in terms of the clarification issued by the CBIC vide Circular No 125/44/2019-GST dated 18.11.2019.
- Petitioner replied the abovementioned impugned SCN and however, department issued the rejection order.

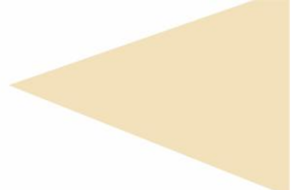
- Accordingly, petitioner filed the refund application on the ground that first application seeking refund was filed within prescribed period and subsequent applications were filed to rectify the deficiencies raised in deficiency memo.

Held:

- It is not in dispute that petitioner application for refund was accompanied by the documents prescribed under Rule 89(2) of the CGST Rules.
- However, the petitioner application was not processed as the proper officer had noticed certain discrepancies and required clarifications and petitioner had provided the relevant documents in order to verify its claims for refund.
- It may be noted that, in terms of Section 54(1) of the CGST Act, an application is required to be made in the prescribed form and manner before two years from the relevant date.
- Petitioner had complied the provisions of section 54(1) of the CGST Act.
- Period of limitation prescribed under Section 54(1) would stop running notwithstanding that the proper officer required further documents or material to satisfy himself that the refund claimed was due to the petitioner.
- The Hon'ble Court relied upon the decision passed in the case of **Bharat Sanchar Nigam Limited VS UOI [2023-VIL-229-DEL]** wherein the Hon'ble HC had held that if the refund application is accompanied by the documentary evidence mentioned under Rule 89(2) of the CGST Rules, it cannot be ignored for the purposes of limitation. It is erroneous to assume that the application, which is accompanied by the documents as specified under Rule 89(2) of the Rules, is required to be treated as complete only after the taxpayer furnishes the clarification of further documents as may be required by the proper officer and that too from the date such clarification is issued.
- Accordingly, impugned order rejecting the petitioner application for refund on the ground of limitation is liable to be rejected and refund application is restored for the consideration of the proper officer, afresh on merits.

f) Delay in filing of an appeal on account of attachment of bank account is condonable

(M/s S A Iron and Metal Vs The Assistant Commissioner, 2023-VIL-498-AP)



Facts:

- The Assistant Commissioner conducted inspection in the business premises of the petitioner and ascertained tax amount along with interest and penalty vide order under DRC-07.
- Thereafter, petitioner challenged the correctness of the said order passed by Assessing Authority and carried out the matter before the Appellate Authority under Section 107 of the CGST Act with request to delay of 25 days in preferring an appeal.
- Since, the petitioner's bank accounts were frozen by the department, the petitioner could not mobilize the funds required for pre-deposit of 10% of the disputed tax for filing appeal.
- Accordingly, petitioner challenged the impugned order passed by the Appellate Authority before the Hon'ble High Court.

Held:

- The word 'sufficient cause' as appearing in Section 107(4) of the CGST Act for the purpose of seeking condonation of delay in filing the appeal has been interpreted by the Hon'ble SC.
- In the case of **Collector, Land Acquisition Vs Mst. Katiji [AIR 1987 SC 1353],** the Hon'ble SC while deciding the application under Section 5 of Limitation Act observed that "Justice oriented approach" is required to be adopted. The expression 'sufficient cause' is adequately elastic to enable the courts to apply the law in a meaningful manner which subserve the ends of justice that being the life purpose for the existence of the institution of Courts.
- Considering the application of delay, the cause of delay would be paramount consideration not the length of delay.
- In the present case, the petitioner filed the appeal with delay of 25 days after the expiry of three months of statutory period of limitation due to his bank account being freeze by the Assistant Commissioner.
- Therefore, when the bank account of the petitioner is freeze by the authorities, it is relevant fact to consider the delay since pre-deposit at the time of filing of appeal is mandatory.

- Accordingly, impugned order passed by the Appellate Authority is liable to be set aside.

g) Assessment order uploaded on the GST portal is a mode of intimation and such intimation cannot be challenged merely because order was not served physically

(M/s Koduvatur Constructions Vs the Assistant Commissioner, 2023-VIL-513-KER)

Facts:

- The respondent cancelled the petitioner's GST registration with effect from 30.09.2021.
- Since, the GST registration was cancelled, the petitioner was under bonafide belief that there is no further liability under CGST Act.
- However, respondent issued the assessment order to the petitioner demanding the tax amount.
- The allegation of the petitioner was that respondent has not served the proper notice as provided under CGST Act.
- Accordingly, petitioner filed the writ petition before the Hon'ble HC on the ground that proper notice was not served.

Held:

- On a bare reading of the clause (a) to (f) of sub-section 1 of Section 169 of CGST Act, clearly states that any decision order, summons, notice or communication under the Act and Rules can be served on the assessee through any one of the methods mentioned therein which *inter-alia* includes serving of the order by making it available on the GST portal.
- It is not in dispute that assessment order was made available on the common portal and petitioner was under impression that since the GST registration is cancelled therefore, there is no liability.
- It is the responsibility of the petitioner to verify the common portal with regard to the GST liability.
- Accordingly, the assessment order served to the petitioner is as per the provision of GST law and accordingly, writ petition is liable to be dismissed.

h) Refund cannot be withheld merely on the ground that the application for the same was not submitted on GST portal due to technical glitches

(M/s Desai Brothers Limited, Ratanpur Vs State of U.P & Ors., 2023-VIL-526-ALH)

Facts:

- The petitioner was transporting certain goods wherein the said goods were detained by the respondent on the allegation of improper documentation.
- Consequently, the seizure order was issued wherein tax amount along with the penalty was demanded from the petitioner.
- Petitioner furnished the security in the shape of bank guarantee and said bank guarantee has been encashed by the respondent.
- Thereafter, petitioner challenged the respondent order by filing an appeal wherein the same was allowed in the favour of petitioner.
- However, respondent didn’t challenge the appellate order before the higher authority which was decided in the favour of appellant.
- Further, it is to be noted that despite the favourable order passed in favor of the petitioner, the respondent didn't refund the principal amount along with the interest to the petitioner.
- However, respondents are of the view that refund may have been granted only if the petitioner had submitted an application for refund in the Form of RFD-01.
- Further, due to the technical glitches on the portal, the petitioner didn’t submit the refund application on the GST portal however, the same was submitted physically within the prescribed timelines.
- Accordingly, petitioner filed the writ petition before the Hon’ble HC to direct the concerned authority to refund the amount along with the interest.

Held:

- The petitioner failed to file online application owing to the technical glitches that existed on the GSTN portal.
- However, petitioner submitted the physical application within the statutory period of 60 days before the respondent.

- Referring to the Rules 97-A of the CGST Act and interpretation made by the Division bench in the case of **Savista Global Solutions Pvt. Ltd. VS UOI-2021-VIL-713-ALH,** the Court held that Rule, 97-A of the Rules has been clearly read to permit a physical application to be filed.
- It is not in dispute that petitioner filed the refund application in physical form within the statutory period of two years from the date when the refund become die.
- Therefore, revenue authorities were obligated in law to deal refund application within a period of 60 days in terms of the Section 54(7) of the CGST Act.
- Accordingly, the Hon'ble Court directed the respondent to dispose the petitioner's refund along with the statutory interest.

i) Amount paid during search cannot be considered as a self-ascertainment

(M/s Parsvnath Traders Vs Principal Commissioner, CGST and Ors. ,2023-VIL-521-P&H)

Facts:

- During the search of the business premises of the petitioner, the respondent observed that petitioner has received bogus invoices from M/s Royal without receiving the goods and availed the ITC in an illegal manner.
- In the course of search of the business premises, the petitioner was forced to deposit a sum of Rs. 20 lacs and called to appear in their office.
- Thereafter, additional amount of Rs. 30,70,216/- was also deposited by the petitioner without issuance of any Show Cause Notice.
- Further, petitioner submitted an application to refund the amount of Rs. 50,70,216/- (Rs. 20,00,00+Rs.30,70,216/-) and however, the same was rejected by the department.
- Accordingly, petitioner filed the writ petition before the Hon'ble HC to set aside the order and sanction the refund amount which has been deposited during the search.

Held:

- It is well settled proposition of law that Section 74(5) of the CGST Act cannot be considered as statutory sanction for advance tax payment.
- The deposit of amount on the day of search and shortly thereof, when the assessee was naturally under the stress of search/ investigation does not amount to 'self-assessment' or 'self-ascertainment'.
- In the present case, petitioner approached the revenue to deposit Rs. 50.70 lacs and therefore, the said deposit shall not be in the nature of 'self-assessment. Hence, the said deposit could not be stated to be voluntary deposit.
- In this regard, the Hon'ble Court relied upon the decision passed in the case of **M/s Bhumi Associate Vs UOI-2021-VIL-117-GUJ** wherein, it was observed that at the time of search/inspection proceedings under the provisions of Central/Gujarat Goods and Services Tax Act, 2017, no recovery in any mode by cheque, cash, e-payments or adjustment of ITC should be made.
- Further, it is to be noted that amount of Rs. 50 Lakh was recovered from the petitioner during the investigation without issuance of any SCN.
- Similarly, in the case of **Century Knitters (India) Ltd Vs UOI-2019-VIL-97-P&H-CE,** the Hon'ble High Court observed that unless and until demand was finalised and existing, no crystallised liability was existing against the petitioner and the revenue could not retain any amount in absence of specific statutory provisions and the refund of the amount so recovered was ordered.
- Therefore, Section 74(5) of the CGST Act which amounts to an unconditional determination and in the nature of 'self-assessment' is not attracted and hence, the said deposit could not be stated to be voluntary deposit.
- Accordingly, the Hon'ble High Court directed the respondent to refund the amount along with the interest @6%.

j) Proper officer shall not cancel the GST registration without providing an opportunity of personal hearing

(M/s Ajit Associates Architectural Consultant Pvt Ltd. Vs. Assistant Commissioner, Ernakulam, 2023-VIL-517-KER)

Facts:

- Assistant Commissioner issued a Show Cause Notice to the petitioner with regard to the cancellation of GST registration on account of non-filing of GST returns.
- However, the Joint Commissioner passed an order of cancellation of GST registration, without providing an opportunity of personal hearing.
- Further, it is to be noted that SCN was issued by the assessing authority while the cancellation order was passed by the succeeding officer.
- Accordingly, petitioner filed the writ petition before the Hon'ble HC and the issue before the Hon'ble HC are as follows:
    I. Interpretation of term "proper officer" in proviso to Section 29(2) of the CGST Act and,
    II. Whether the succeeding officer was bound to give an opportunity of hearing to the petitioner before the cancelling the GST registration.

Held:

- There has been no personal hearing provided by the officer who issued the GST cancellation order.
- In the case of **Anantha Naganna Vs the Commissioner of Income Tax, Andra Pradesh, Hyderabad AIR 1970 AP 367** where there was a change of Income-tax officer regarding which the assessee had no intimation wherein the Hon'ble HC relying upon the Section 28(3) of the Income Tax Act, held that it is obligatory on the part of the authorities imposing a penalty to hear and give reasonable opportunity to the assessee before an order imposing penalty is passed.
- Further, in the case of **Commissioner of Income-tax, West Benagl-IV Vs chitra Mukherjee AiR 1970 AP 367,** the Calcutta HC referred to **Ananths Naganna (Supra)**. In a case arising out of the Income-tax Act and concurred with a view and held that assessee had to be given an opportunity of being heard by the succeeding officer.
- However, the statutory provision in the present case is a little different, the case refereed above was cited only on the opportunity of being heard to be given before passing an order.

- The proviso of Section 29(2) of the CGST Act mentioned that proper officer shall not cancel the registration without giving an opportunity of being heard which is in the nature of an embargo on the officer.
- The necessary implication is that the proper officer has to hear the concerned person before cancelling the registration, which would mean that the assessee is put on notice by the succeeding officer also.
- Accordingly, in view of the decision passed in the abovementioned case law, the Hon'ble HC quashed the order passed by the Joint Commissioner.

k) Order passed by the Commissioner (Appeals) shall always be binding on the Assistant Commissioner

(M/s Jacobs Solutions India Pvt Ltd Vs UOI, 2023-VIL-516-BOM)

Facts:

- Petitioner exported the consultancy services to its group entities which is situated outside India under without payment of tax.
- Consequently, the petitioner filed the refund application and however, SCN was issued on ground of non-disclosure of invoices details.
- The petitioner replied to the said SCN. However, department rejected the refund claim in FORM GST RFD-06.
- Thereafter, petitioner preferred an appeal against the said order.
- Accordingly, refund was allowed *inter alia* holding that letter issued by the HSBC were sufficient proof of correlation of the invoice number/ date with the relevant Bank Realisation Certificate/ FIRCs.
- In pursuance of the favourable order, petitioner again filed the refund application before the concerned authority and however, SCN was issued again calling upon why the refund claim ought not to be rejected.
- The said SCN was responded by the petitioner on the ground that there is sufficient proof and correlation between the invoices and FIRCs and however, the same was again rejected on the ground of non-disclosure of invoices details of FIRCs.

- Accordingly, petitioner filed the writ petitioner before the Hon'ble High Court to quashed the order and sanction the refund amount.

Held:

- When the subject appeal resulting in the appeal being allowed, then Assistant Commissioner cannot take a position that he is not bound by the order passed by the Commissioner (Appeals) and would have authority to revisit the finding.
- When the entire fact-finding exercise was subjected to the scrutiny in an appeal resulting in the appeal being allowed, then it is difficult to accept the contention on behalf of the respondent.
- Assistant Commissioner has no authority and jurisdiction to re-visit the concluded findings of fact and the conclusions as derived by the Additional Commissioner of Appeals.
- However, if the department was of the opinion that the order passed by Additional Commissioner is required to be challenged, the same was required to be assailed in appropriate proceeding.
- Further, the Hon'ble HC relied upon the decision passed in the case of **Globus Petroaditions Pvt. Ltd Vs UOI 2022-VIL-99-BOM** whereby, in similar circumstances the Court observed that Assistant Commissioner is required to comply with the orders passed by the Commissioner of Appeals and in taking such view the Assistant Commissioner would not have refused to comply with the orders passed by the Commissioner of Appeals.
- Similarly, SC has settled the principal of law in the case of **UOI Vs Kamlakshi Finance Corporation Ltd-1991-VIL-01-SC-CE,** wherein the SC had directed the department to adhere to the judicial discipline and give effect to the order of higher appellate authorities which are binding on them.
- Accordingly, the Hon'ble HC allowed the writ petition and directed the respondent the sanction the refund amount along with the interest in terms of Section 56 of the CGST Act.

l) Voluntary deposit made under protest during adjudication to be treated as part of pre-deposit for filing an appeal

(M/s Vinod Metal Vs the State of Maharashtra & Ors., 2023-VIL-515-BOM)

Facts:

- Section 107(6) of the CGST Act provides that appeal shall be filed under 107(1) of the CSGT Act, unless the appellant has paid in full amount of tax, interest, fine, fee and penalty and a sum of 10% of remaining amount of tax in dispute.
- In view of the above provisions the petitioner approached the Hon'ble HC to take the benefit of voluntary deposit of made under the provisions of Section 73(5) of the CGST Act in relation to compliance of provision of Section 107(6) of the CGST Act
- Accordingly, the issue before the Hon'ble HC was that whether the voluntary deposit made under protest during adjudication shall be treated as pre-deposit for filing an appeal.

Held:

- On a bare reading of the Section 73 of the CSGT Act, it can be said that an amount deposited under Section 73(5) is not an amount, which is deposited in pursuance of any demand or any assessment order.
- Therefore, when it comes to the compliance of Section 107(6) of the CSGT Act, the mandatory payment of tax, being a condition precedent mandated in terms of sub-sections 6(a) and 6(b) of the Section 107 of CSGT Act.
- Relying upon the decision passed by the Apex Court in the case of **VVF India Ltd. Vs. State of Maharashtra-2021-VIL-92-SC,** the Apex Court observed that considering that the provisions of the CGST Act on pre-deposit are not too different from the provisions of the MVAT Act.
- Therefore, the amount deposited by the assessee anterior to the order of assessment cannot be excluded from consideration towards mandatory deposit of 10% of the amount of tax disputed being a condition for filing of an appeal, squarely apply to the provisions of Section 107(6) of the CGST Act.
- The voluntary deposit as made under the protest by the petitioner under the provision of 73(5) of the CGST Act, cannot be excluded from consideration for the purpose of compliance as mandated by Section 107(6) of CGST Act.

- Accordingly, the Hon'ble HC directed to register compliance of the provisions of Section 107(6) of the CGST Act by taking into consideration the voluntary deposit made by the petitioner under Section 73(5) of the CSGT Act.

m) Officer cannot confiscate the purchaser goods merely on the ground that supplier's has obtained the GST registration by producing fake documents

(M/s Arhaan Ferrous and Non-Ferrous Solutions Pvt Ltd Vs the Deputy Assistant Commissioner, 2023-VIL-497-AP)

Facts:

- The petitioner purchased the iron scrap from the K.S Enterprise and in turn sold the same in favour of M/s Radha Smelters Pvt. Ltd. Sankarampet
- The petitioner engaged the vehicle of the T. Srinvasulu for the transportation of said goods from Vijayawada to Sankarampet wherein the consignment was sent along with valid documents.
- However, the said goods along with the vehicle were detained by the Deputy Assistant Commissioner on the ground that vendor of the petitioner i.e. KS Enterprise has no place of business at Vijayawada and accordingly, issued the impugned proceeding.
- Further, the petitioner did not follow the procedure contemplated under CGST Act and straight away issued the proceeding proposing the confiscate goods without issuing notices in GST MOV-02,03,04,05,06,07,08 or GST MOV-09 before issuing notice of confiscation in Form GST MOV-10.
- Accordingly, the petitioner fled the writ petition before the Hon'ble HC and the issue before the Hon'ble HC are as follows:
    I. Whether proper officer is justified in detaining the goods and vehicles of the petitioners based on the proceeding initiated against the supplier.
    II. Whether the Proper Officer is justified in confiscating the goods of the petitioner without initiating any proceedings under Section 129 but initiating proceedings under Section 130 against the supplier vendor

Held:

- The proper officer may initiate proceedings against the supplier under Section 130 of the CGST Act in view of the absence at the given address and not holding the business premises.
- However, officer cannot confiscate the goods of the purchaser merely on the ground that purchaser happens to purchase goods from the said supplier.
- The purchasing dealer has to establish the mode of payment of consideration and the mode of receiving of goods from the supplier through authenticated documents.
- The Proper Officer is not correct in roping the petitioners in the proceedings initiated against the vendor without initiating independent proceedings under Section 129 of CGST Act against the petitioners.
- As the petitioner claims to have purchased goods from the supplier whose physical existence in the given address is highly doubtful, the petitioner owes a responsibility to prove the genuineness of the transactions between him and his supplier.
- Therefore, the respondent can initiate proceedings under Section 129 of CGST Act against the petitioners and conduct enquiry by giving opportunity to the petitioners to establish their case.
- In the meanwhile, the respondent is directed to release the detained goods in favour of petitioner on deposit of 25% of their value and executing personal bond for the balance and to release the vehicles by executing personal security bonds for the value of the vehicles.

n) Revenue cannot insist the assessee to pay alleged amount until and unless adjudication is finalised or inquiry is still going on

(M/s Power and Instrumentation Vs Commissioner, CGST Commissionerate, Udaipur, Rajasthan, 2023-VIL-532-RAJ)

Facts:

- The petitioner was awarded contract by the AVVNL, Ajmer to undertake some electrification works in Dungarpur District in the year 2014.
- Summons were issued to the petitioner intimating that an inquiry has been initiated in respect of short payment of GST on taxable supply to AVVNL wherein petitioner submitted its response pursuant to said summons.

- Thereafter, another notice was issued to the petitioner wherein in the said notice it is stated that petitioner is liable to pay GST of Rs. 5,51,49,553/- for period 2018 to September 2021.
- In response to the abovementioned notices, the petitioner submitted that issue involved the interpretation of law and raised the objection regarding computation of differential amount.
- Despite the objection raised by the petitioner, respondent forced the petitioner to deposit an amount of Rs. 40,00,000/- under Section 73(5) of CGST Act.
- Accordingly, petitioner filed the writ petition before the Hon'ble HC on the ground that without adjudication of the question in accordance with law, department cannot force the petitioner to pay the amount.

Held:

- On a bare perusal of the reply submitted by the respondent, it appears that inquiry is still going on and final adjudication as per Section 73 of the CGST Act has not been completed.
- The respondent cannot insist the petitioner to pay the additional amount till the final adjudication takes place.
- Further, it is to be noted that amount deposited through DRC-03 shall remain subject to the final adjudication of the matter under Section 73 of the CGST Act.

o) Offline appeals filed due to the technical glitches on GST portal cannot be rejected

(M/s K V Reddy Granites and Exports Vs. the State of Andhra Pradesh, 2023-VIL-540-AP)

Facts:

- The petitioner made an effort to submit the appeal on the GST portal and however, due to the technical glitches on the GST portal the said appeal could not be submitted.
- Thereafter, petitioner submitted the said appeals manually and however, the Department denied to accept the same on the ground that petitioner has not submitted the appeal electronically.

- Accordingly, the petitioner preferred a writ petition before the Hon'ble HC.

Held:

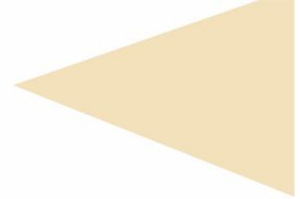
- Petitioner made an effort to submit an appeal electronically and, however due to unknown technical glitches on the GST portal, the petitioner couldn't submit the same.
- It is to be noted that just merely portal did not permit to submit the appeal electronically, for which petitioner cannot be penalized of filing an appeal manually.
- Rule 108 of CGST Rules lays down the provisions that an appeal to the Appellate Authority shall be filed in FORM GST APL 01, either electronically or otherwise as may be notified by the Commissioner.
- However, in this regard there is no such notification has been issued by the Chief Commissioner.
- Further, in similar circumstances, a Division Bench of the Hon'ble Andhra Pradesh in **W.P. No 9324 of 2019** has observed that when substantial justice is pitted against technical consideration, it would be always necessary to prefer the end pf justice.
- Accordingly, in light of the above, respondent is directed to set aside the order admit the appeal.

p) ITC shall not be allowed to the purchasing dealer in case tax is not paid to the government by the supplier

(M/s Aastha Enterprises Vs. the State of Bihar, 2023-VIL-546-PAT)

Facts:

- The petitioner filed the writ petition before the Hon'ble HC challenging the validity of Section 16(1), 16(2)(c) of the CGST Act.
- Accordingly, the issue before the Hon'ble HC are as follows:
  I. Whether the purchasing dealer can be denied ITC in the event of non-payment of tax by selling dealer who defaulted payment of collected tax to the Government?



Held:

- The conditions of availing the ITC are provided under the clause (a), (b) and (c) of the Section 16 of the CGST Act, which states that the said conditions are to be satisfied together and not separately.
- Mere production of invoices, account details and documents evidencing transportation of goods does not absolve the assessee from the conditions provided under sub-clause (c) of Section 16(2) i.e. tax paid to the government.
- The purchasing dealer being the person who claim ITC could only claim if the said supplier who collected tax from the purchaser has paid to the Government.
- The statutory levy and benefit of ITC conferred on the purchasing dealer depends not only upon the collection by the seller but also the due payment by the seller to the Government.
- Further, it is to be noted that, when the supplier fails to comply the provisions mentioned under the CGST law and, therefore purchasing dealer cannot claim the ITC.
- The Government can recover the amounts from the selling dealer and if such amounts are recovered, then purchasing dealer can seek the refund of amount which is paid as a tax.
- Therefore, as long as tax paid by purchaser to supplier is not paid to the Government by the supplier, the purchaser cannot raise claim of ITC.
- Accordingly, purchasing dealer cannot be eligible of ITC when the supplier has not paid the tax amount to the Government.

q) Department cannot seize cash during the investigation that does not form part of stock in trade

(State Tax Officer (IB) & Ors. Vs Shabu George & Anr., 2023-VIL-74-SC)

Facts:

- Inspection was carried out in the premises of the petitioner in terms of Section 67(2) of the CGST Act.
- During the investigation done by the authorities under the provision of the CGST Act, the respondent seized the cash from the petitioner premises.

- Feeling aggrieved by the seizure of cash, the petitioner filed the writ petition before the Hon'ble Kerala HC wherein the Hon'ble Kerala HC had pronounced the judgment in favour of the petitioner.
- Thereafter, respondent filed the Special leave petition (SLP) against order passed by the Hon'ble HC before the Apex Court.

Held:

- The power of any authority to seize any 'thing' while functioning under the provisions of a taxing statute must be guided and informed in its exercised by the statute concerned.
- Investigation carried out in terms of the CGST Act, cash cannot be seized especially when it is the admitted case that cash doesn't form part of the stock in trade of the business.
- The seizure of cash from the appellant premises is wholly uncalled for and unwarranted and further, respondent has retained the seized cash for more than six months and haven't issued the SCN.
- Accordingly, the Hon'ble HC directed the respondent to forthwith release the seized cash with immediate effect.
- In view of the above, the Hon'ble SC confirmed the HC order and dismissed the SLP filed by the respondent.

r) Freezing of bank account by letter without any authority or order of commissioner is not valid

(M/s Vikas Enterprises Vs Commissioner of Central Tax (GST), Delhi North & Anr.,2023-VIL-493-DEL)

Facts:

- The respondent issued a letter to the bank seeking information with regard to the petitioner bank account and directed to freeze the bank account.
- The said communication further directed the bank to not permit any debit from the petitioner's bank account without prior permission of the department.
- Respondent referred the Section 83 of the CGST Act, 2017 wherein the said section provides that Commissioner is of the opinion that for the purpose of

protecting the interest of the Government it is necessary to passed an order for the provisional attachment.

- However, in the instant case, Commissioner has not issued any such order.
- Feeling aggrieved by the communication letter sent to the bank without issuance of the order, petitioner filed the writ petition before the Hon'ble HC.

Held:

- The impugned communication is without authority of law and has been issued in complete disregard of the provisions of the CGST Act.
- Further, the impugned communication has emanated from Superintendent (Anti-Evasion) and not by Commissioner exercising jurisdiction in respect of the taxpayer and the said communication doesn't indicate that it was issued with the authority of the Commissioner.
- Further, reliance is place in the decision passed by the Apex Court in the case of **Radha Krishan Industries Vs State of Himachal Pradesh & Ors.- (2021) 6 SCC 771** wherein the Hon'ble SC has observed that drastic powers must be exercised only where it is necessary.
- Considering the wide adverse ramifications, the Court has in number of decisions held that power under Section 83 of the CGST Act can be exercised only subject to the conditions, as specified therein, being fully satisfied.
- No order under Section 83 has been passed in the instant case and therefore, communication to the respondent is without authority of law.
- Accordingly, the impugned communication to the extent that it seeks to debit freeze the bank account are liable to be set aside.

s) Cancellation of GST registration without ascribing any reason is cryptic in nature

(M/s Sohilbhai Siddiqbhai Aaadmani Vs Superintendent, CGST, 2023-VIL-491-GUJ)

Facts:

- SCN was issued to the petitioner alleging that registration has been obtained by means of fraud, wilful misstatement or suppression of facts and however, the said SCN was silent on the aspects of reasons.

- Petitioner submitted a detailed reply of the said SCN and requested to provide evidences upon which the said SCN has been issued.
- However, without providing any material and evidences, the respondent passed an order without providing any reason for cancellation of GST registration under Section 29(2)(e) of the CGST Act.

Held:

- SCN issued for cancellation of registration of GST registration is without any reason and in the said SCN the department had mentioned one line i.e. *"In case, registration has been obtained by means of fraud, wilful mis-statement or suppression of facts".*
- Therefore, such SCN is without any basis and there is no reason assigned in arriving at the conclusion for cancellation of registration.
- Further, before passing the order, respondent authority has not taken into consideration of reply submitted by the petitioner and on the same day order for cancellation of registration has been passed by the department.
- In the instant case, while issuing the SCN necessary documents were not supplied and therefore, the said notice is cryptic.
- Further, while passing the impugned order, the respondent has not assigned any reason and thus, order passed by the respondent is not tenable at law.
- Relying upon the judgment passed in the case of **Aggarwal Dyening and Printing Works Vs State of Gujarat & Ors. 2022-VIL-261-GUJ** and **Om Trading Vs State of Gujarat 2023-VIL—395-GUJ,** the SCN and order are liable to be quashed and set aside.

t) Opportunity to rectify procedural defects in appeal to be provided before deciding the appeal on merits

(M/s JEM Exporter Vs Commissioner of CGST & C. Ex, Appeal-I, Mumbai, 2023-VIL-489-BOM)

Facts:

- The Petitioner is engaged in the business of exporting mobile handsets and registered under the CGST Act, 2017 as a sole proprietor.

- The Petitioner made an application for refund of Input Tax Credit ("ITC") on export of goods and services.
- SCN demanding reversal of ITC and contending cancellation of registration under section 29(2) of the CGST Act, 2017 was issued on the petitioner and IJM Exporters, a proprietorship firm of one Mr. Imran Jamal Merchant, both having same registered office address.
- It was alleged that the petitioner and IJM exporters has wrongly availed ITC since IJM exporters purchased goods from non-existing entities which has been further supplied to the petitioner who exported the goods and made the claim of refund of ITC on exports.
- The petitioner made its submission in response to the SCN.
- Order in original confirming the demand of ITC and cancelling the registration of the petitioner under section 29(2)(e) of the CGST Act, 2017 was passed.
- Against the above order, the Petitioner filed an appeal with the Commissioner (Appeals).
- The Appellate authority confirmed the O-I-O by upholding the cancellation of registration of the Petitioner and confirming the demand of duty, penalty and interest on the ground that the pre-deposit for fling the appeal has not been made by the Petitioner and furthermore, the appeal is not signed as per Rule 26 of CGST Rules, 2017.
- The Commissioner (Appeal) also observed that as per the investigation report, the persons from whom IJM Exporters had purchased the goods were non-existent and, therefore, the IJM Exporters had claimed fake ITC and since purchases of the Petitioner are from IJM Exporters, consequently the Petitioner has also wrongly availed the ITC and made a claim for refund.
- Being aggrieved by the aforesaid order, the Petitioner filed the writ petition before the Hon'ble HC on the ground that procedure laid for processing refund application and cancellation of registration was not followed.

Held:

- The Commissioner (Appeal) was not justified in deciding the matter on merits after having concluded that the appeal is to be rejected on the ground of lapse of procedural requirement for filling the appeal.

- If the appeal is rejected on this ground, then any adjudication on merits is not permissible by the Appellate Authority and would be without jurisdiction.
- The Commissioner (Appeal) ought to have issued a defect memo calling upon the Petitioner to produce the proof of pre-deposit of tax as per section 107(6) of the CGST Act, 2017, for fling the certified copy of the order and for authentication of the appeal memo as per rule 26(2)(a).
- Not giving an opportunity to the petitioner for curing the procedural defect is in contravention to the principles of natural justice.
- The Order in Appeal was set aside and restored to the file of the Commissioner (Appeal) for issue of defect memo to the Petitioner pointing out the procedural defect in the appeal and providing adequate opportunity for rectifying the same.
- If the Petitioner rectifies the defect specified in the defect memo, then the Commissioner (Appeal) will pass a fresh order disposing of the appeal on merits after considering all the submissions made, including the contention of correct procedure having not followed by the adjudicating authority.

u) ITC cannot be denied to recipient without due investigation of supplier

(M/s Suncraft Energy Pvt. Ltd and another Vs the Assistant Commissioner of State tax, Ballygunge and Ors., 2023-VIL-487-CAL)

Facts:

- The respondent had supplied the goods and services to the appellant and however, some of the invoice of the said supplier was not reflected in the GSTR-2A of the appellant in the FY 2017-18.
- The appellant submitted the return for the FY 2017-18 which was followed by the notice wherein the appellant submitted the reply to the said notice.
- Thereafter, the appellant was served with the SCN proposing the demand on the basis of difference of amount of ITC in Form GSTR-2A and GSTR-3B.
- In continuation to the above SCN, the appellant submitted detailed reply and however, the said SCN was adjudicated and demand of tax, interest along with penalty was confirmed by the Adjudicating Authority.

- Challenging the said order, the appellant filed the writ petition wherein the single judge bench disposed the writ petition directing the appellant to prefer an appeal and appellate authority was directed to dispose the appeal on the ground of limitation.
- Thereafter, aggrieved by the order, the appellant filed the appeal before the Hon'ble HC.

Held:

- In the instant case, the despite having fulfilled all the conditions mentioned under Section 16(2) of the CGST Act, the department has erred in reversing the credit and directed the appellant to deposit the tax which is already paid at the time of availing goods and services.
- The appellant is in possession of valid tax invoice and payment details to the supplier have been substantiated by producing tax invoice and bank statement.
- Further, it is not in dispute that the respondent has not conducted any enquiry on the supplier more particularly when press release dated 18.10.2018, a clarification has been issued where furnishing outward details in Form GSTR 1 by a corresponding supplier and the facility to view the same in Form GSTR 2A by the recipient is in the nature of tax payer facilitation and does not impact the ability of the tax payers to avail input tax credit on self-assessment basis in consonance with the provisions of Section 16 of the Act.
- Furthermore, it was clarified that there shall not be any automatic reversal of input tax credit from buyer on non-payment of tax by seller.
- In continuation to the above, the respondent without resorting to any action against supplier has ignored the tax invoices produced by the appellant as well as bank statement that the appellant has paid the price of goods and services and as well as the tax rendered on same.
- Therefore, before directing the appellant to reverse the ITC and remit the same to the government, the respondent ought to have taken action against the selling dealer.
- Accordingly, the demand raised on the appellant is not sustainable and are liable to be set aside.

v) Post decisional hearing should be given in case of blocking of input tax credit in electronic credit ledger as per Rule 86A of CGST Rules

(K-9 enterprises, Kwality Metals Versus the State of Karnataka, The Assistant Commissioner of Commercial Taxes, Lgsto,2023-VIL-484-KAR)

Facts:

- The petitioners are registered under the Karnataka Goods and Services Tax Act, 2017 and are dealing with lead, lead scrap and other ancillary business related to lead and lead scrap.
- On a field visit by the Assistant State Tax Officer, Vasco-D-Gama, Goa, it was found that the petitioner has availed ITC from registered persons who has been found non-existent or not to be conducting any business from any place for which registration has been obtained in contravention of the above provisions.
- Based on the field report of the Assistant State Tax Officer, Vasco-D-Gama, Goa, order for blocking electronic credit ledger of the petitioner was passed under Rule 86A of CGST Rules, 2017.
- Being aggrieved by the said order, the petition preferred an appeal before the Hon'ble HC on the grounds of violation of principles of natural justice.

Held:

- The order passed under Rule 86A of the CGST Rules, 2017 is virtually provisional in nature.
- Reference was made to the principle stated by the High Court of Bombay in Dee Vee Projects Ltd.'s case, citing that though statute does not expressly provide for a personal hearing before passing order under the rule 86A, a post-decisional or remedial hearing could be granted to the person/assessee affected by blocking of his electronic credit ledger.
- Since the nature of order passed under Rule 86A is provisional, it would be reasonable to consider granting a post-decision hearing to the petitioners which would comply with the principles of natural justice.
- Though post-decision hearing is not a substitute for pre-decisional hearing, in situations where pre-decisional hearing is likely to frustrate the interest and

purpose of the Statute, the mechanism of post-decisional hearing will be the only alternative.

- Accordingly, the writ petition was disposed off directing the department to afford an opportunity of post-decisional hearing to the petitioners before initiating proceedings under section 73 or section 74 of the CGST Act, 2017 for wrong availment of input tax credit.

w) Non-issuance of notice under section 61 would not affect the validity of proceeding initiated under Section 74 of the CGST Act

(M/s Nagaarjuna Agro Chemicals Pvt Ltd Vs Sttae of U.P and another, 2023-VIL-483-ALH)

Facts:

- The petitioner had submitted returns for the F.Y 2018-19 whereas the department apparently didn't initiate any proceeding under Section 61 of the CGST Act.
- Thereafter, the department initiated the proceeding under Section 74 of the CGST Act and passed an order.
- Feelings aggrieved by the order passed by the department, the petitioner filed the writ petition before the Hon'ble HC wherein the issue before the Hon'ble Court was that whether the department is required to issue a notice under Section 61(3) of the CGST Act before initiating action under Section 74 of the CGST Act.

Held:

- The exigency, which is dealt with under Section 61 is quite distinct and is confined to the security returns.
- The scrutiny proceedings of return as well as proceeding under Section 74 are two separate and distinct exigencies and issuance of notice under Section 61(3) of the CGST Act cannot be construed as a condition precedent for initiation of action under Section 74 of the Act.

- Merely because no notices were issued under Section 61 of the CGST Act would mean that issue of classification or short payment of tax cannot be dealt under Section 74 of the CGST Act.
- Accordingly, the Hon'ble HC dismissed the writ petition filed by the petitioner.

x) Rejection of refund application without providing an opportunity of hearing is violation of principle of natural justice

(M/s Shivbhola Filaments Pvt Ltd Vs Assistant Commissioner CGST & Anr, 2023-VIL-481-DEL)

Facts:

- The petitioner claimed that the raw materials used for manufacturing of the product are chargeable to GST @ 18% and due to inverted tax structure unable to avail the credit of input tax paid on inputs in discharge of tax liability on output.
- In the aforesaid circumstances, petitioner filed the refund applications for the period August, 2018 to March, 2019.
- The respondent rejected the refund application for the reason that there is mismatch with the returns filed by the petitioner in form GSTR-2A.
- Thereafter, petitioner submitted reconciliation statement for the relevant tax period and however, same was rejected on the same ground i.e. mismatch with returns.
- Petitioner preferred an appeal before the appellate authority and the said appeal was rejected.
- Felling aggrieved by the order passed by the appellate authority, the petitioner filed the writ petition before the Hon'ble HC on the ground that not afforded an opportunity to be heard and secondly furnished the reconciliation and yet same were rejected on ground of mismatch in returns.

Held:

- The petitioner had submitted reconciliation statements and had reduced its claims for refund substantially to restrict the same to the quantum of refund, that was due.

- The Concerned officer is not required to simply reject the refund application on the ground of any mismatch without permitting taxpayer to reconcile the same and provide the necessary explanations.
- In the instant case, petitioner was not heard by the Adjudicating Authority and no such exercise for determining the amount of refund admissible was undertaken.
- Accordingly, the Hon'ble HC set aside the order passed by the Appellate Authority and Adjudicating Authority and restore the petitioner refund application and directed the authority to re-determine the amount after affording an opportunity to be heard.

y) Service tax not applicable on storage services provided by foreign entity in warehouse located outside India even though the actual benefit has been received in India

(M/s Sunbeam Auto Pvt. Ltd. Vs Commissioner of CGST, New Delhi, 2023-VIL-808-CESTAT-CHD-ST)

Facts:

- The Appellant registered with the service tax for rendering of taxable services viz scientific and Technical Consultancy, Banking and Financial, Transport of Goods by Road, Consulting Engineer, Intellectual Property Services and renting of immovable property Services and Test, Inspection, & Certification.
- The Department undertook audit for the period 2008-2009 wherein it was observed that the Appellant had received warehousing services falling under the taxable service category of storage and warehousing services from the person outside India not having any establishment in India on which it had not paid service tax.
- Accordingly, SCN was issued demanding service tax of Rs. 3,28,974/- along with interest and penalty and subsequently, the demand was confirmed vide impugned order.
- The Appellant being aggrieved has preferred the present appeal on the issue whether the Appellant is liable to pay service tax on the services of storage & warehouse provided by a person in abroad and warehouses are also situated

outside the country but the actual benefit of such services have been received in India by the appellant.

Held:

- The Hon'ble CESTAT, Chandigarh observed that storage and warehousing service has been received in USA (outside India), the service not being performed in India, it cannot be said that service has been received in India.
- Further, said services will only be taxable as import of service under Rule 3(ii) of taxation of services (Provided from outside India & received in India) Rules 2006 when such service has been performed in India.
- Since the service of storage and warehousing has been received outside India, it is not taxable service under Section 66A read with Rule 3(ii) of the said rules.
- Further, observed that for the subsequent period in the Appellant's own case Commissioner has decided in favour of the appellant and dropped the demand of service tax vide its order dated 23.04.2014.
- Further, the similar issue has been covered in favour of the Appellant in the case of **Sundaram Clayton Ltd. Vs. CCE, Chennai [2011-VIL-558-CESTAT-CHE-ST]** and **Sundaram Industries Ltd. Vs. CCE [2023-VIL-805-CESTAT-CHE-ST]**.
- Accordingly, set aside the impugned order and allowed the appeal.

z) CENVAT credit allowed in respect of manuals essential for the activities undertaken by the assessee

(M/s Honda Cars India Ltd Vs. Commissioner of Central Excise, Noida-II, 2023-VIL-774-CESTAT-ALH-ST)

Facts:

- The Appellant is engaged in engaged in manufacturing and cleaning various parts of the four-wheeler vehicles manufactured by Honda Cars India Ltd.
- The Appellant procured parts from various sources by way of import and through local vendors. Further after undertaking quality checks the Appellant

pack these parts into boxes and affix MRP on the boxes which are further cleared to authorised dealers for sale and servicing of automobiles.

- Further, the Appellant discharges excise duty on said parts on the basis of MRP affixed.
- Appellant got two manuals namely Part Manual and Service Manual developed in respect of these parts, from their principal Honda Cars Japan against payment of certain agreed fees. They paid the Service Tax due in respect of these services imported by them, on reverse charge basis and availed the CENVAT credit of the service tax paid.
- However, the department was of the view that said manuals do not quality as input services as defined by Rule 2(l) of the Cenvat Credit Rules, 2004 (CCR).
- Accordingly, SCNs were issued and demand was confirmed vide impugned order.
- The Appellant being aggrieved, has preferred the present appeal.

Held:

- As per the contract entered by the Appellant with Honda Motor Company Ltd., Japan for Service Information Preparation Concerning Automobiles, manual is nothing but a part of the inventory management system for the appellant in respect of the parts procured and supplied by them through their dealers to the ultimate customers. It is created for codification of all the parts for proper understanding and management of inventory. Without this manual all the operations of the appellant will be haphazard. Therefore, the manual is an essential part inventory management, procurement and supply system of the parts to the dealers.
- The manual further provides safety standard, quality standard, instructions of how to maintain and repair vehicles and such standardisation is absolutely essential to the activities undertaken by the appellant through supply of genuine spare parts.
- Further, the value of the entire services received by the appellant is shown as expense in the book of accounts of the appellant towards the sale of these parts. Without including the value of these services received by the appellant the MRP of the parts sold cannot be arrived at.

- Therefore, Cenvat credit in respect of manual is admissible and the allowed the appeal

aa) No service tax payable on development of own land before selling as it amounts to self-service. Further, development of land on behalf on landowner is liable to service tax

(M/s Green House Promoters Pvt. Ltd. Vs Commissioner of GST & Central Excise Chennai, 2023-VIL-756-CESTAT-CHE-ST)

Facts:

- The Appellant is engaged in providing construction services in respect of commercial or Industrial buildings and civil structures.
- Further, the Appellant was undertaking following 2 transactions:
  - Land purchased outright by the Appellant from the landowners and where site formation etc. is done after purchasing the land but before selling it, and
  - Land sold by the appellant as per the GPA obtained from the landowners and where site formation etc. is done after obtaining GPA but before selling the land.
- Intelligence was received that the Appellant is not paying service tax on land development charges collected from the customers.
- Accordingly, SCN was issued demand service tax under the head 'Site formation and clearance and the said demand was confirmed vide the impugned order.
- The Appellant being aggrieved by the above order preferred the present appeal.

Held:

- Where a landowner does site preparation/ development work on self-owned land, which work is not done on behalf of or for any person involving a consideration, then it would be self-service and accordingly, landowner would not be liable to pay service tax as there is no service provider and service receiver relationship.

- Where the taxable service is performed for any person, by any other person, in relation to site formation and clearance etc, even on self-owned land of the service provider, then there is a service provider and service receiver relationship along with consideration involved and service tax will be payable.
- In second transaction, site formation is done by the Appellant on 'behalf of the owners' only. Hence the appellant is only an agent of the landowners and not an independent party who has purchased land from the landowners and sold it to the customer.
- The Appellant has referred to Section 53A of the Transfer of Property Act, to assert that once the possession of the land is granted to the Appellant by landowners who execute a GPA in the appellants favour, then for all legal purposes the transaction is recognized as purchase of immovable property.
- Hon'ble CESTAT, Chennai held that the said section only protects the transferee from certain actions by the transferor once he has taken possession of the property. However, taking possession of property does not amount to ownership of property. Hence, by virtue of this section the appellant cannot claim to possess transferable tile to the land and become its actual owner.
- Also, the Appellant is receiving brokerage in lieu of site preparation and has signed the agreement as 'power agent of landowner' and not as landowner.
- Accordingly, there is no self-service and hence, service tax is payable.
- In respect of invocation of extended period, it was held that as per the agreement, all the taxes like service tax and income tax etc. are to be paid by the Appellant and the same should have made them verify their obligations under the Finance Act 1994 and therefore, bonafides cannot be accepted. Moreso, the very process of using GPA to claim principal-to-principal sale is a fraudulent act. Thus, extended period has been rightly invoked.

bb) General Power of Attorney does not confer any legal title or possession as the sale deed is executed by the landowners

(M/s. Sree Annapoorna Gowrishankar Estates And Constructions Private Limited, 2023-VIL-726-CESTAT-CHE-ST)

Facts:

- The Appellant is engaged in the rendering services under the category of 'Renting of Immovable Property Services'.
- During the scrutiny of the accounts for the year 2006-07 and 2007-08 it was found that Appellant had received Rs.92,56,460/- and Rs.18,01,000/- during 2006-07 and 2007-08 respectively for providing 'Real Estate Services' and the Appellant has not registered for the said services and not discharged the service tax liability.
- Show Cause Notice dated 19.09.2011 was issued proposing to demand the service tax along with interest and for imposing penalty and the adjudicating authority confirmed the demand along with interest and penalty and the same was upheld by the Commissioner (Appeals).
- The Appellant preferred an appeal before the Ld. CESTAT.
- The Appellant submitted that it has neither rendered any Real Estate Agent Service nor received any consideration for such services. Further, the Appellant purchased and sold the land and amount received from such sale is from sale of immovable property.
- Further, the land was acquired from various land owners through a registered Power of Attorney and the Appellant has paid the value of the land.
- The possession of land by the Appellant by the way of Power of Attorney and the amount received cannot be construed as consideration for Real Estate Agent Services.
- Further, the entire transaction was reflected in the books of accounts and the Balance sheet and the same cannot that there is a wilful suppression of facts with intent to evade tax.
- The Department submitted that the land was never in the name of the Appellant and the General Power of Attorney or the declaration signed by the land owners are not legal documents transferring right over the property to the Appellant and the evasion of tax would not have come in light of there would have been no scrutiny of the accounts.

Held:

- In the present matter, the issue to be decided is
  - whether the Appellant is liable to pay service tax under 'Real Estate Agent Service'

- whether the extended period in invokable
- whether the appellant has put forward reasonable cause for non-imposition of penalties under Section 80 of the Finance Act 1994.

- On bare perusal of the documents, there was no legal title or possession of property with the Appellant and such documents and the said documents only facilitate the appellant to find a buyer for the land without the involvement of the land owners.
- The Power of Attorney is only an authorisation to sell and to find a buyer and the sale deed has been ultimately executed by the land owners and not by the Appellant and has only acted as a middleman/agent and the sale of the immovable property and amount received is consideration for such services and these findings of the adjudicating authority was upheld by the Commissioner (Appeals) and the same is in favour of revenue at this stage.
- The Appellant did not obtain registration under the 'Real Estate Agent Service' and did not pay the service tax and the same would have gone unnoticed. So for the said reason the demand on the ground of limitation has not been set aside.
- However, the Appellant has put forward explanation that they were under bonafide belief that the transaction is purchase and sale of immovable property and that it did not fall under 'Real Estate Agent Service.' For this reason we are or of the considered opinion that in terms of Section 80 of finance Act, 1944 the penalties imposed under Section 77& 78 alone, 1994 require to be set aside.
- The impugned order is modified to the extent of setting aside the penalties imposed under Section 77 and 78 of the Finance Act, 1994 without disturbing the demand of service tax or the interest thereon

2. AAR/AAAR

cc) No exemption on supply of education and training services to commercial pilots as per the training curriculum when not recognised under any law

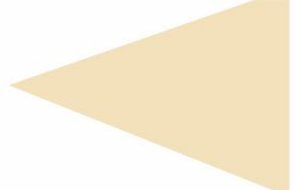
(M/s CAE Simulation Training Private Limited, 2023-VIL-32-AAAR)

Facts:

- The Appellant is a group company of Inter Globe Enterprises Limited which is engaged in the business of facilitating the training of commercial pilots on the Aircraft Stimulators installed at its training facilities in accordance with the training curriculum approved by the Directorate General of Civil Aviation for obtaining the extension of Aircraft Type Ratings on their existing licenses.
- The Appellant filed an application before the Authority for Advance Ruling for the following question:

  "Whether the supply of education and training services to commercial pilots in accordance with the training curriculum approved by the DGCA for obtaining the extension of ATRs on their existing license would be covered under Sl. No. 66(a) of the Notification No. 12/2017 dated 30.06.2017, and thereby exempt from levy of CGST & UPGST"

- The Authority for Advance Ruling in its impugned ruling held that the supply of education and training services to commercial pilots in accordance with the training curriculum approved by DGCA for obtaining the extension of ATRs on their existing licenses is not exempt under Sl. No. 66(a) of Notification No. 12/2017 -Central Tax (Rate) dated 28.06.2017 and Sl. No. 66(a) of the Notification No. A.NI.-2-843/XI-9(47)/17-U.P.Act-1-2017-Order-(10)-2017 dated 30.06.2017.
- The Appellant being aggrieved by the said ruling preferred an appeal before the Appellate Authority for Advance Ruling and prays to set aside/modify the impugned Advance Ruling Order No. UP ADRG 14/2022 dated 02.12.2022 - 2023-VIL-125-AAR passed by the Authority for Advance Ruling.
- The Appellant contended that the supply of education and training services to commercial pilots in accordance with training curriculum approved by DGCA for obtaining the extension of Aircraft Type Rating (ATR) are covered under Sl. No. 66(a) of Notification dated 30.06.2017 and as per Explanatory Notes to the Scheme of Classification of services qualifies as an educational service which is liable to GST @ 18% under Sl. No. 30 of the Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 unless they fall under any exemption.



Held:

- In the present matter, DGCA is a statutory authority exercising powers conferred on it under the Aircraft Act and the rules made thereunder.
- The Commercial Pilot's Licence (CPL) is granted to the concerned on undergoing the basic flight training at flying schools, which enables them to fly only small aircrafts and it does not allow or permit the holder to fly commercial passenger aircrafts, unless the holder undergoes an aircraft specific training which is called "type rating training".
- It is observed that the Appellant undertakes the supply of the ATR extension training services to their trainees as per the agreement and the pilots holding the CPL(A) have to undergo the ATR extension training for the specific type of aircraft(s) so as to fly the said aircraft with the commercial airlines.
- The Appellant issues a course completion certificate once the type rating training is completed. The pilots have to file an application with the DGCA, for extension of ATR, along with the required documents amongst which the course completion certificate is the one as a proof that the said pilot has undergone the training.
- Further, there is no statutory requirement for the Course Completion Certificate by DGCA and it only enables the trainee pilot to apply to DGCA for appearing in the examination conducted by it.
- The training conducted by the Appellant does not result into any qualification and it is not recognized by the law.
- Hence, the Authority for Advance Ruling have rightly held that the impugned services of the Appellant are not covered under entry number 66(a) of the Notification 12/2017- Central Tax (rate) dated 28.06.2017, as amended and hence do not qualify for exemption from GST.

dd) Common credit availed liable to be reversed on account of sale of alcoholic liquor for human consumption

(M/s. Karnani FNB Specialities LLP, 2023-VIL-31-AAAR)

Facts:

- The Appellant is engaged in the business of providing restaurant service from its lounge bar (GRID) and also providing catering services as well as banquet

renting services from their banquet (The Almond). The Appellant supplied various goods and services from the said premises and paid the appropriate GST.

- Further, the Appellant along with such supplies at times, is also engaged in selling/serving of alcoholic liquor for human consumption to its customers from GRID and no alcoholic liquor for human consumption is being sold or served at the banquet.
- The Appellant procures various inputs and input services and pays GST at the time of procurement of such inputs and input services. While restaurant services attracts 5% GST with no ITC, banquet rentals from Almond attracts GST @ 18% with full ITC. Accordingly, the Appellant only avails credit to the extent of inputs and input services procured for banquet (Almond) and no ITC is being availed in respect of procurement of any goods or services related to the restaurant (GRID).
- The Appellant filed an application before the Authority for Advance Ruling for the following question:

  > Whether or not the Applicant is obliged to reverse ITC under Section 17(2) of the CGST Act read with Rule 42 of the CGST Rules, in view of the sale of alcoholic liquor for human consumption effected by it at its premises under the facts and circumstances of the case?

- It was held that the Appellant was required to reverse the ITC in terms of sub-section (2) of section 17 of the GST Act read with Rule 42 of the GST Rules for sale of alcoholic liquor for human consumption.
- The Appellant being aggrieved by the said ruling preferred an appeal before the Appellate Authority for Advance Ruling.

<u>Held:</u>

- The Appellant was availing some common ITC at Head office which was being used both for the supply of services provided at Banquet Hall as well as the services provided at their Restaurant from where alcoholic liquor for human consumption is supplied.

- The Appellant has contended that the definition of goods cannot include alcoholic liquor for human consumption but such claim is not tenable.
- Further, Section 9 of the GST Act, 2017 provides for the levy of the GST on intra-state supplies of goods and/or services except on the supply of the alcoholic liquor for human consumption and this provision is in consonance of Clause 12A of Article 366 of the Constitution.
- ITC cannot be allowed for the supplies which are non-taxable. Hence, the alcoholic liquor for human consumption is non-taxable and ITC cannot be allowed for supply of the same.
- Therefore, the Appellant is required to reverse the ITC in terms of Sub-section (2) of Section 17 read with Rule 42 of the GST Rules, 2017 for the sale of alcoholic liquor for human consumption and the Ruling No. 22/WBAAR/2022-23 dated 09.02.2023 is confirmed and the Appeal stands rejected.

ee) Multiple transfers within the FTWZ are not covered under Schedule III of the CGST Act as it is not a warehouse licensed under Customs Act

(M/s Haworth India Private Limited, 2023-VIL-169-AAR)

Facts:

- The Applicant is a wholly owned subsidiary of Haworth, Inc. United States and is engaged in the manufacture and sale of office furniture under the brand name 'Haworth'. The Applicant procures raw materials indigenously as well as international market and also imports certain finished goods from its group entities.
- The operation of the Applicant is located in Domestic Tariff Area (DTA) and the outward supplies effected in India includes:
    - Sale of goods manufactured at the manufacturing facility; and
    - Sale of goods imported from group entities.
- Further, the Applicant has been contemplating to operate and re-sale transaction from a Free Trade Warehousing Zone (hereinafter referred to as 'FTWZ') for operational convenience involving less documentation and swift clearance process so as to expedite project execution.
- Further, the FTWZ is a Special Economic Zone wherein the trading, warehousing and other activities related thereto are carried out. An FTWZ is a

deemed foreign territory within the geography of India for the purpose of trade. The FTWZ law allows multiple transfers of ownership transactions without removal of the goods out of FTWZ, thus ensuring the trading chain to be as close as possible and as may be required, ensuring that there is no cascade of indirect taxes / compliance and avoids increase in transaction cost.

- In the facts and circumstances of the case, the Applicant has sought Advance Ruling on the following questions:
  - Whether the transfer of title of goods by the Applicant to its customers or multiple transfers within the FTWZ would result in bonded warehouse transaction covered under Schedule III of the CGST Act, 2017 r/w CGST Amendment Act, 2018?
  - Whether the Integrated Tax (IGST) Circular No. 3/1/2018 dated 25.05.2018 is applicable to the present factual situation?

Held:

- Regarding Question-1, it appeared that the transaction of supply takes place within the FTWZ and as per the Schedule III of CGST Act, the transaction/activity of supply of goods by the consignee to any other person by the endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance of home consumption is neither a supply of goods nor a supply of service.
- Further, the reference is made to Explanation II to Schedule III of CGST Act 2017, the expression "warehoused goods" in the schedule shall have the same meaning as assigned to it in the Customs Act 1962.
- Even though the day to day activities like warehousing and clearing of goods for home consumption on payment of applicable custom duties supervised by customs official posted in the WZ in accordance with SEZ Act 2005, read with Customs Act, 1962, the approval/license/administrative control for FTWZ are fully governed under the provisions of SEZ Act 2005. Therefore, FTWZ is not a warehouse licensed under Customs Act 1962. Hence, the transactions narrated in the application are not covered under Schedule III of the CGST Act.
- Regarding Question-2, the reference is made to Circular No.03/2018-IGST dated 25.05.2018 has been rescinded vide Circular No. 04/01//2019- IGST

dated 01.02.2019, in view of the amendment made in Schedule III of the CGST& TNGST Act, 2017, by inserting Paragraph No. 8(a), so as to provide that the 'supply of warehoused goods to any person before clearance for home consumption' shall be neither a supply of goods nor a supply of service.

ff) ITC allowed on services of renting of motor vehicles used for transportation of women employees as made obligatory under the law

(M/s Access Healthcare Services Private Limited, 2023-VIL-165-AAR)

Facts:

- The Applicant is engaged in rendering IT enabled support services in the health care sector to customers located outside India. Since, the entire customer base of the Applicant is located outside India with different time zones.
- Further, the Applicant is registered under the Tamil Nadu Shops and Establishment Act, 1947 for all the places in the state of Tamil Nadu and as per the act and the rules prescribed therein, it is mandatory for the Applicant to provide transportation facility for women employees working in shifts and provide for adequate protection of safety for women employees working between 8.00 PM to 6.00 AM.
- The Applicant in compliance to the said mandate, procure the services of leasing/renting/hiring of motor vehicles for passenger transportation and provide the same to women employees working in shifts. Further, the Applicant has an internal policy, wherein it is mandatory for women employees working beyond 8.00 PM (either arriving to work place alter 8.00 PM or leaving after 8.00 PM) to use the car facility provided by the Applicant for commuting to/from workplace and home. They have added that, no outsider will be permitted to use the transport facility provided by the Applicant.
- The service provider shall be raising an invoice on monthly basis for the services being rendered in particular month and these invoices would be supported by detailed documents to substantiate the total costs and expenses charged by the service provider to the Applicant. The vehicles rented out are with seating capacity of less than 13 persons.
- The Applicant has sought Advance Ruling on the following questions:

- Whether tax paid on input services in respect of leasing/renting/hiring of motor vehicles to provide transportation facility to women employees, is eligible to be availed as Input tax credit (ITC)?
- If eligible, can ITC be availed for services received from the date of introduction of proviso to section 17(5)(b)(iii) of CGST Act, 2017 with effect from 1st February 2019.

Held:

- In the present matter, the question is whether the Applicant is entitled to avail input tax credit on GST paid towards renting/hiring of motor vehicles with seating capacity of less than thirteen persons (including driver) for providing transport facilities to women employees working beyond 8.00 PM, which is obligatory on the part of the Applicant as per the Tamil Nadu Shops and Establishments Act.
- The reference is made to amended provisions of Section 17(5) of the CGST Act, 2017. As per CGST (Amendment) Act, 2018 (No. 31 of 2018) dated 29.08.2018, clauses (a) and (b) of sub-section (5) of Section 17 has been substituted as under, with effect from 01.02.2019, vide Notification No. 02/2019 -Central Tax, dated 29.01.2019, wherein it has been clarified that ITC has not been allowed on leasing, renting or hiring of motor vehicles, for transportation of persons, having approved seating capacity of not more than thirteen persons (including the driver).
- However, as per the proviso to Section 17(5)(b), input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.
- In the present case, the ITC is not blocked on the renting of motor vehicles to provide transport facilities to women employees working between 8.00 PM to 6.00 AM as it is obligatory for an employer to provide the same to its employees under the law for the time being in force (Tamil Nadu Shops and Establishment Act, 1947) as per Section 17(5)(b) of the CGST Act, 2017 only from 28.05.2019, which is the date of the Notification issued by the Tamil Nadu Government in this regard.

S.No.	Questions	Ruling
1.	Whether tax paid on input services in respect of leasing/renting/hiring of motor vehicles to provide transportation facility to women employees, is eligible to be availed as Input tax credit (ITC)?	The Applicant is entitled to avail ITC on the tax paid towards leasing/renting/hiring of motor vehicles for providing transport facilities to women employees alone, who are arriving or leaving workplace between 8.00 p.m. to 6.00 a.m.
2.	If eligible, can ITC be availed for services received from the date of introduction of proviso to section 17(5)(b)(iii) of CGST Act, 2017 with effect from 1st February 2019.	ITC can be availed with effect from 28.05.2019 subject to the provisions of Section 16 of the CGST/ TNGST Act, 2017.

gg)Services provided to Government Authority are taxable @ 18% w.e.f. 01.01.2022

(M/s The Indian Hume Pipe Company Limited, 2023-VIL-164-AAR)

Facts:

- The Applicant undertakes the contract for construction of head works, sumps, Pump Rooms, laying and jointing of pipeline and commissioning and maintenance of entire work for Water Supply Projects/Sewerage Projects/Facilities.
- Further, the Applicant was awarded contract by M/s Tamil Nadu Water Supply & Drainage Board vide its letter No. F.CWSS to Alampalayam/ DO(T2)/CE/CBE/2018 dated 16.08.2018.
- The Applicant has sought for advance ruling on the following questions;
    - Whether the supply of services by the applicant to M/s Tamil Nadu Water Supply and Drainage Board is covered by Notification No. 15/2021-

CT(Rate) dated 18.11.2021 r/w Notification No. 22/2021-CT(Rate) dated 31.12.2021;

- If the supplies as per Question 1 are covered by the said Notification, then what is the applicable rate of Tax under Goods and Services Act, 2017 on such supplies; and
- In case if the supplies as per Question 1 are not covered by the said Notification, then what is the applicable rate of tax on such supplies under the Goods and Services Act?

Held:

- In the present matter, the Applicant was awarded a contract for providing Combined Water Supply Scheme to Alampalayam Town Panchayat, Padaveedu Town Panchayat including 669 Rural Habitations in Pallipalayam and Tiruchengode Unions in Namakkal District and Sankari Town Panchayat in Salem District with Cauvery river as source, 18 months construction followed by 6 months Trial Run including paid maintenance of the scheme for a period of five years.
- The question which needs to be answered is what shall be the rate of tax applicable on the supply of the services by the Applicant to M/s Tamil Nadu Water Supply & Drainage Board w.e.f. 01.01.2022 consequent to amendment of Notification 11/2017 CT(Rate) dated 28.06.2017 by Notification No. 15/2021- CT(Rate) dated 18.11.2021.
- Notification No.11/2017 Central Tax (Rate) dt 28.06.2017 amended vide Notification No. 20/2017- Central Tax (Rate) dt 22.08.2017 and the Notification No.11/2017 was further amended vide Notification No. 31/2017 - Central Tax (Rate) dated 13.10.2017 wherein the words "Government, a local authority or Governmental authority" were replaced/ substituted by the words "Central Government, State Government, Union territory, a Local Authority, a Governmental Authority or a Government Entity".
- Further, the Notification No.11/2017- Central Tax ® dt 28.06.2017 was further amended vide Notification No. 15/2021 - Central Tax (Rate) dated November 18, 2021, wherein, in Entry 3(iii), the words "Union territory, a local authority, a Governmental Authority or a Government Entity" were substituted with "Union territory or a local authority".

- Further, the TWAD Board has been constituted only to implement certain functions (not all the functions) of local bodies and it cannot be equated to a local body and hence it can be concluded that M/s Tamil Nadu Water Supply and Drainage Board is not a Local Authority and the same is a 'Governmental Authority' within the meaning of explanation 4(ix) of Notification No. 11/2017-CT(Rate) dated 28.06.2017, as amended.
- The nature of the service provided by the Applicant is covered under the entry serial no. 3(iii) of the Notification No. 11/2017-CT(Rate) dated 28.06.2017 till 31.12.2021.
- Further, the Entry No.3 of the Notification No. 11/2017 - Central Tax (Rate) dt 28.06.2017 amended vide Notification No. 3/2022- Central Tax, dt 13.07.2022 which came into force with effect from the 18.07.2022 and the entry 3(iii) of Notification No. 11/2017 - Central Tax (Rate) dt 28.06.2017 itself was omitted and with effect from 18.07.2022, the works contract services supplied by the Applicant to TWAD Board is liable for tax @18% vide 3 (xii) of the Notification No. 11/2017.

Questions	**Rulings**
Whether the supply of services by the applicant to M/s Tamil Nadu Water Supply and Drainage Board is covered by Notification No. 15/2021-CT(Rate) dated 18.11.2021 r/w Notification No. 22/2021-CT(Rate) dated 31.12.2021?	The supply of service provided/to be provided by the Applicant to M/s Tamil Nadu Water Supply and Drainage Board are not covered by Notification No. 15/2021- CT(Rate) dated 18.11.2021 r/w Notification No. 22/2021-CT(Rate) dated 31.12.2021.
If the supplies as per Question 1 are covered by the said Notification, then what is the applicable rate of Tax under Goods and Services Act, 2017 on such supplies?	Not Applicable

In case if the supplies as per Question 1 are not covered by the said Notification then what is the applicable rate of tax on such supplies under the Goods and Services Act?	The supply of service provided/to be provided by the Applicant to M/s Tamil Nadu Water Supply and Drainage Board are covered under serial number 3(xii) of the Notification No. 11/2017-CT(Rate) dated 28.06.2017 and attract CGST @ 9% and SGST @ 9% with effect from 01.01.2022.

hh)Supply of information technology enabled services rendered to recipient qualifies as export of services and inturn are zero rated

(M/s Luksha Consulting Private Limited, 2023-VIL-163-AAR)

Facts:

- The Applicant is engaged in providing IT enabled services to companies located outside India, on its own but do not develop full products or support data centre activities.
- The Applicant entered into an agreement with M/s. Luksha Limited, UK and Spovens Limited UK to provide various services.
- The Applicant has sought Advance Ruling on the following:

  The team in India will monitor the customer applications running in UK and provide any fix or update required in case of issues. Contract amount will be receivable in UK currency only. Whether IGST is applicable for the above export online monitoring software contract work and if applicable rate of GST.

Held:

- The present case has been admitted to analyse whether the transaction at hand satisfy the conditions stipulated under Section 2(6) of the IGST Act, 2017 to qualify it as export of services.

- As per Explanation 1 Section 8 of the IGST Act, an establishment of a person in India and another establishment of the said person outside India are considered as establishment of distinct persons.
- The Applicant satisfies the following conditions specified under Section 2(6) of the IGST Act which are as follows:

Conditions	Remarks
(i) the supplier of service is located in India	The supplier of service M/s. Luksha Consulting Private Limited is located in India.
(ii) the recipient of service is located outside India;	The recipient M/s. Luksha Limited, UK is located outside India.
(iii) the place of supply of service is outside India;	In terms of Section 13(2) of the IGST Act, the place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services. In the case of Applicant, as the recipients of service are located outside India, the place of supply of service is outside India.
(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and	As seen from the terms of agreement and copy of invoice furnished by the Applicant, payment has been received in Great Britain Pounds.
(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8	The supplier of service is incorporated in India under the Companies Act and the recipient of service is incorporated under the Companies Act, UK.

- Hence, the supply of information technology enabled services rendered by the Applicant to the recipient qualifies to fall under export of services on fulfilling the conditions specified under section 2(6) of the IGST Act, 2017, which in turn is considered as a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017.

ii) Services of advancement of spirituality and yoga do not qualify for exemption under charitable activity or educational services

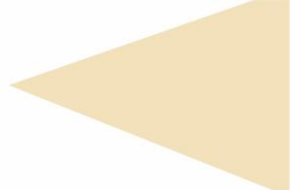
(M/s Isha Foundation, 2023-VIL-158-AAR)

Facts:

- The Applicant is a Public Charitable Trust and engaged in promoting education, yoga, meditation and other charitable objectives. The Applicant enjoys exemption under section 12AB and 80G of Income Tax for its activities.
- Further, the Applicant desires to run Isha Samskriti, a gurukul style of residential school which seeks to impart traditional Bharatiya style of education to children between ages of 7 and 18 in Chikkaballapur in Karnataka and main objective of this form of education is to nurture the human being so that his body, mind and energies are able to grow to the fullest extent and that they teach subjects like Sanskrit and English language, Indian classical music (Carnatic and Hindustani), Indian classical dance (Bharatnatyam and other forms), Kalaripayattu, Yoga and basic arithmetic; that these disciplines have an impact on the child's physical and intellectual development which is conducive for the spiritual process.
- The Applicant has sought Advance Ruling on the following questions:
  - Whether the Education being provided by the Applicant is exempt under Entry No. 69 of Notification No. 9/2017-Integrated Tax (Rate) dated 28th June 2017?
  - If no for point (a), whether such service is exempt under any other notification?

Held:

- The Applicant submitted that the activities of ISHA foundation and of Isha Samskriti is advancement of spirituality and yoga and the Applicant seeks



exemption under Entry 1 of the Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017 but to fall under the same the following conditions are to be satisfied:

i. The entity providing services should be registered under section 12AA or 12AB of the Income-tax Act, 1961.
ii. And the services provided by that entity should be by way of 'charitable activities'

- The Applicant satisfies the first condition as the same is registered under Section 12AB of the Income Tax Act, 1961
- The Applicant has stated that the education provided by the 'Isha Samskriti' are just like a ordinary school and is not providing any services relating to advancement of religion, spirituality and yoga. Hence, the Applicant has failed to prove that the services provided by them through 'Isha Samskriti', a gurukul style of residential school does not qualify to be 'charitable activities' as defined in the notification mentioned supra at para 11 and therefore not eligible to claim exemption as per entry 1 of the Notification No. 9/2017-Integrated Tax (Rate) dated 28th June 2017.
- Further, the 'Isha Samskriti' is a residential school with its own curriculum which is in line with Bharatiya tradition of gurukulas. The Applicant is neither providing pre-school education nor education up to higher secondary school and they are following their own curriculum. In view of the above the Applicant is not covered under the definition of "educational institution" as per Notification No. 9/2017-Integrated Tax (Rate) dated 28th June 2017 and hence cannot claim exemption as per entry no. 69 of the same notification.

Questions	Ruling
Whether the Education being provided by the Applicant is exempt under Entry No. 69 of Notification No. 9/2017-Integrated Tax (Rate) dated 28th June 2017?	The Education being provided by the Applicant is not exempt under Entry No. 69 of Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017.

If no for point (a), whether such service is exempt under any other notification?	The service provided by the Applicant through ISHA Samskriti is not exempt under any other notification.

jj) Taxable value does not include the cost of material and execution work borne by the customer

(M/s Purvanchal Vidyut Vitran Nigam Limited, 2023-VIL-156-AAR)

Facts:

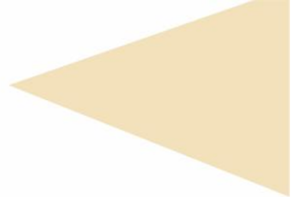
- The Applicant is Electricity Distribution Company and being expert in the area, Electricity Lines are installed in their supervision where electricity lines needs to be installed, to supply the electricity at the designated location on the request of customers and for safe and proper installation of line it is done in Applicant's supervision. Installation of lines is done at cost of customers and entire cost is born by the customers.
- There are two methods of installing the line:
  - one where the entire work with material are arranged by the customers and installation work is done by the contractors hired by the client. The role of Applicant is limited to supervision of work
  - The second, where the entire material and the installation is arranged by the Applicant on behalf of the customers and work is done under the supervision of the Applicant. The Applicant charge cost of material and installation cost as reimbursement and towards the fees for supply of services only supervision charges are charged.
- The Applicant submits that the cost of material, installation expenses etc is paid by the Applicant on behalf of our customer in pure agent capacity and the Applicant charges consideration for work is supervision charges only and the cost of material and the execution is borne by the customer. The Applicant only claim the reimbursement of the expenses incurred and the value of supply of services is only price charged by the Applicant i.e. supervision charges.
- As per Section 15(1) of the CGST Act, the value of supply will be transaction value for supply of goods or services. In the present cases supply of service is

only supervision work. Installation of line is responsibility of the customers and one part of that work is supervision of work. Thus here in all cases supply of services is supervision work and transaction value is amount received by the Applicant on account of supervision charges and accordingly GST on supply of service i.e. supervision work shall be payable.

- The Applicant has submitted an application for Advance Ruling seeking clarity on the following question:
  - Whether in the given facts and circumstances (In Annexure 1) value of material and cost of execution work for installation of lines will be included in the value of supply for determination of taxable value under GST where all such cost are taken as reimbursement while our supply is only supervision charges.
  - Whether in the given facts and circumstances (In Annexure No 1) value of material and cost of execution work for installation of lines will be included in the value of supply for determination of taxable value under GST where all such costs are born by the recipient of service and we charge only supervision charges.

Held:

- In the present matter, the time and value of supply of goods or services or both are to be determines.
- In first case, where the entire material and installation work is arranged by Applicant on behalf of customers and the work is done in the Applicant's supervision. The Applicant charges only for the supervision charges and reimbursement towards the cost of material and installation cost. Thus, GST is payable on the value of the supervisions charges which is being billed by them for their services and the GST shall be charged under single invoice raised by the Applicant.
- In the second case, where the entire work with material is arranged by the customer and the installation work is done by the contractors hired by them and the role of Applicant is limited to supervise the work, here the taxable value of the supply for the Applicant is only the supervision work and the GST shall be charged and payable on the transaction value i.e. the supervision charge (as charged by Applicant on total cost of work/material excluding GST



on total taxable value of work/material) collected from customers by the Applicant.

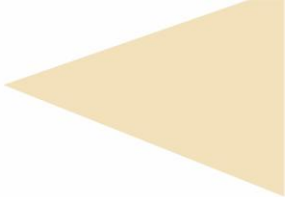
S.No.	Questions	Ruling
1.	Whether in the given facts and circumstances (In Annexure 1) value of material and cost of execution work for installation of lines will be included in the value of supply for determination of taxable value under GST where all such cost are taken as reimbursement while our supply is only supervision charges.	Yes, the value of the material and cost of the execution work for installation of lines will be included in the value of supply for determination of taxable value under GST where all such cost are taken as reimbursement by the Applicant.
2.	Whether in the given facts and circumstances (In Annexure No 1) value of material and cost of execution work for installation of lines will be included in the value of supply for determination of taxable value under GST where all such costs are born by the recipient of service and we charge only supervision charges.	No, the value of material and cost of execution work for installation of lines will not be included in the value of supply for determination of taxable value under GST where all such costs are born by the recipient of service and the Applicant charge only supervision charges as the amount as the entire work with material are arranged by customers and installation work is done by the contractors hired by the customers.

kk) Availment of ITC is barred if the Demo vehicles retained as a replacement vehicles in the workshop

(M/s Sai Service Pvt. Limited, 2023-VIL-154-AAR)

Facts:

- The Applicant is an authorized car dealer for MSIL for supply of four-wheeler vehicles, spares and for servicing of vehicles and engaged in the business of supply of automobiles having dealerships of MSIL, Bajaj, KTM, & Chetak Technology Limited.
- The Applicant is also involved in providing servicing, repair, related auxiliary services with respect to motor vehicles and also trades in preowned cars.
- Further, as part of its day to day business, the Applicant requires certain demo vehicles for demonstration purpose in the showrooms and every these demo vehicles are used for demonstration for a period of two years or 40,000 Kms whichever is earlier. These cars are a part of sales promotion activity and also important for executing the sales.
- The demo vehicles are procured against a tax invoice and these are provided at a discount on the basic price of vehicle by MSIL as per its policy.
- These vehicles are capitalized in the books of accounts as fixed assets and claims depreciation under the Income Tax Act.
- These vehicles are sold as second hand vehicles to the customers basis the type of customer i.e., either B2B or B2C.
- The company does not avail Input Tax Credit (ITC) of the said demo vehicles during the procurement from MSIL. At the time of sale to customers as a used motor vehicle, these vehicles are taxed in accordance with the Notification No. 08/2018 - Central Tax (Rate) dated 25.01.2018, wherein value is determined on the margin method i.e. in case of registered persons who has claimed depreciation under Section 32 of the Income Tax Act, 1961 on the said goods, the value that represents the margin of the supplier shall be difference between the consideration received for the supply of such goods and the depreciated value of such goods on the date of supply.
- Further, the Applicant intents to avail the ITC procurement of such vehicles used for demonstration purpose and will not be availing the benefit under the above mentioned notification at the time of sale of such vehicles and the Applicant pay taxes on sale value at the point of sale.



- The Applicant has made the present application before the Authority for Advance Ruling in regard to the following questions:

  Whether the Applicant is entitled to avail the input tax credit charged on inward supply of motor vehicle which are used for demonstration purpose in the course of business of supply of motor vehicle as input tax credit on capital goods?

Held:

- In the present matter, the main question raised is whether the ITC can be claimed by a motor vehicles vendor who has purchased certain motor vehicles and has used them as test drive vehicles and disposed them after (2) years.
- Further, as per the sales policy issued by MSIL (SPB No.635, dt. 05.09.2010) stipulates the following norms for purchase and resale of these test drive vehicles, it can be understood that:
  - The test vehicles will be capitalised in the books of company/dealership.
  - The vehicle will not be sold upto (2) years or usage upto 40,000 Kms., whichever is earlier.
  - The vehicle has to be used in the workshop as replacement vehicle.
  - The vehicle can be sold otherwise only with the approval of the vendor company of the Applicant.
- Section 17(5) of the CGST Act, 2017 restricts the availment of ITC on motor vehicles purchased by a tax payer even though used in the course of furtherance of business. Thus, from the plain reading of the section no ITC can be claimed by the Applicant or purchase of test drive vehicles even though they are used in the course of furtherance of business.
- Further, the motor vehicle being capitalized by the Applicant does not make the tax paid on their purchases ineligible for ITC if there is a further supply of such motor vehicles within the scope of Section 7 of the CGST Act.

Questions	Rulings
Whether the applicant is entitled to avail the input	a. If the applicant is making further supply of such vehicle is eligible for the ITC claimed.

tax credit charged on inward supply of motor vehicle which are used for demonstration purpose in the course of business of supply of motor vehicle as input tax credit on capital goods?	b. if the applicant is retaining the vehicle for his workshop as replacement vehicle as mentioned in the sales policy of MSIL, he shall not be eligible for ITC as there is no further supply at his hands. Therefore, the ITC claimed by him has to be repaid in cash in view of the amended section 16(4) notified vide notification No. 18/2022, Central Tax dt.28.09.2022 w.e.f.: 01.10.2022.

3. INSTRUCTION/ CIRCULAR

ll) GSTN Advisory: Mera Bill Mera Adhikaar Scheme

(Advisory dated 24.08.2023)

- GSTN has developed and launched a mobile application (available on iOS and Android platforms) and also a web portal for the "Mera Bill Mera Adhikaar" scheme.
- This scheme will be implemented from 01.09.2023 initially in the States of Gujarat, Assam, Haryana and UTs of Puducherry and Daman & Diu and Dadra & Nagar Haveli, as per the policy decision of the Government.
- User Manual Download Link: https://tutorial.gst.gov.in/downloads/news/mbma_user_manual_18_august_2023 _final.pdf

mm) Introduced Electronic Credit Reversal and Re-claimed statement on GSTN

(Advisory dated 31.08.2023)

- Background: Vide *Notification No. 14/2022 – Central Tax dated 05.07.2022* (read with *Circular No. 170/02/2022-GST dated 6.07.2022*), the Government introduced certain changes in Table 4 of Form GSTR-3B so as to enable the

taxpayers in reporting correct information regarding ITC availed, ITC reversal, ITC re-claimed and ineligible ITC.

- In order to facilitate the taxpayers in correct and accurate reporting of ITC reversal and reclaim thereof and to avoid clerical mistakes, a new ledger namely Electronic Credit and Re-claimed Statement is being introduced on the GST portal.
- This statement will help the taxpayers in tracking their ITC that has been reversed in Table 4B(2) of GSTR-3B of a tax period and thereafter re-claimed in Table 4D(1) and 4A(5) of GSTR-3B for each tax period, starting from August 2023 (monthly filing)/ July-September 2023 (Quarterly filing). Further, it shall facilitate that while re-claiming ITC in GSTR-3B, the amount aligns appropriately with the corresponding reversed ITC.
- This aims to improve the overall consistency and correctness of ITC reversal and re-claims related transactions.
- Taxpayers are being provided a facility to report their cumulative ITC reversal (ITC that has been reversed earlier and has not yet been reclaimed) as opening balance for "Electronic Credit Reversal and Re-claimed Statement", if any.
- With the provision for taxpayers to report their accumulated ITC reversal balance, the portal will subsequently maintain a record of reversal and re-claimed amounts on a return period basis in statement.
- Hence, a validation mechanism is incorporated into the GSTR-3B form. This validation will trigger a warning message if a taxpayer attempts to re-claim excess ITC in Table 4D(1) than the available ITC reversal balance in
- the statement along with ITC reversal made in current return period in Table 4B(2).
- This warning message would also facilitate accurate reporting but the taxpayers will still have the option to proceed with filing. However, the taxpayers were advised by the department not to reclaim ITC exceeding the closing balance of "Electronic Credit Reversal and Re-claimed Statement" and they may report their pending reversed ITC, if any, as ITC reversal opening balance.

nn)CGST (Amendment) Bill, 2023

(Bill No. 119 of 2023 dated 09.08.2023)

- GST Council in its 50th and 51st Council Meeting made various recommendations on taxability of Casinos, Horse Racing and Online Gaming.
- Accordingly, Section 2 of the CGST Act has been proposed to be amended to include the meaning of 'online gaming', 'online gaming money', 'specified actionable claim' and virtual digital assets and the definition of supplier has been amended to include a person who arranges/ organises supply of specified actionable claim.
- Section 24 of the CGST Act (i.e., compulsory registration in certain cases) has been proposed to be amended to include every person supplying online money gaming from a place outside India to a person in India.
- In Schedule III of the CGST Act, "lottery, betting and gambling" has been proposed to be substituted with "specified actionable claims".

oo) IGST (Amendment) Bill, 2023

(Bill No. 120 of 2023 dated 09.08.2023)

- GST Council in its 50th and 51st Council Meeting made various recommendations on taxability of Casinos, Horse Racing and Online Gaming.
- Accordingly, amendments have been proposed in definitions (Section 2(17)(vii)), Place of supply of goods other than supply of goods imported into or exported from India (Section 10) and new section 14A (i.e., Special provision for specified actionable claims supplied by a person located outside the taxable territory) has been proposed to be inserted in IGST Act to tax online gaming.
- The said provisions will come into effect as and when notified.

pp) Recommendations of 51st GST Council Meeting

(Press Release dated 02.08.2023)

- The GST Council in the 50th meeting held on 11.07.2023 had recommended that the actionable claims supplied in Casinos, Horse racing and Online gaming may be taxed at the rate of 28% on full face value, irrespective of whether the activities are a game of skill or chance.
- Accordingly, the GST Council in its 51st meeting recommended certain amendments in the CGST Act and IGST Act including amendment in Schedule

III of CGST Act, to provide clarity on the taxation of supplies in casinos, horse racing and online gaming.

- The Council also recommended to insert a specific provision in IGST Act to provide for liability to pay GST on the supply of online money gaming by a supplier located outside India to a person in India, for single registration in India for the said supplier through a simplified registration scheme and also for blocking of access by the public to any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier in case of failure to comply with provisions of registration and payment of tax.
- The Council also recommended that valuation of supply of online gaming and actionable claims in casinos may be done based on the amount paid or payable to or deposited with the supplier, by or on behalf of the player (excluding the amount entered into games/ bets out of winnings of previous games/ bets) and not on the total value of each bet placed.
- The Council also recommended to bring the amendments into effect from 01.10.2023.

qq) Clarifications regarding applicability of GST on canteen and director services

(Circular No. 201/13/2023 dated 01.08.2023)

- Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to RCM:
  - Services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM.
  - Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017.

- <u>Whether supply of food or beverages in cinema hall is taxable as restaurant service:</u>
    - Supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:
        - the food or beverages are supplied by way of or as part of a service, and
        - supplied independent of the cinema exhibition service.
    - Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

rr) Maharashtra: Extended the time limit to file Annexure-I in respect of appeal to be filed before Appellate Tribunal

(Trade Circular No. 20T of 2023 dated 31.07.2023)

- Trade Circular 9T of 2020 dt. 26th May 2020 in their orders under the MGST Act instructed the taxpayers to file Annexure-I if they want to file appeal before Appellate Tribunal within 15 days.
- All those taxpayers who have not filed the Annexure-I within the stipulated period of 15 days as given in the above Trade Circular are hereby given 15 days from the date of issuance of this circular to file the said annexure. The Annexure-I filed within such extended time period shall be presumed to be filed as provided in above Trade Circular.

PHD CHAMBER
HARMONY PROGRESS DEVELOPMENT
Estd. - 1905

TATTVAM
GROUP

TATTVAM ADVISORS | TATTVAM VALUERS | TATTVAM CAPITAL | TATTVAM & Co. CHARTERED ACCOUNTANTS

CONTACT US

JD-2C, 2nd Floor, Pitampura, Metro Pillar No. 355, New Delhi- 110034

No. 1371, Sri Nikethan, 1st Floor, 31st B Cross Road, 4th T Block East, Jayanagar Bengaluru, Karnataka - 560041

501, Sheetal Enclave, Mindspace, Nr. Tangent Showroom, Off New Link Road, Malad (W), Mumbai - 400064, India

301, 3rd Floor, V3A Square Near Shailendra Nagar Under Bridge, Priyadarshani Nagar, Pachpedi Naka, Raipur, Chhattisgarh-492001

www.tattvamadvisors.com

info@tattvamadvisors.com
indirecttax@tattvamgroup.in

+91 9953 107 107 / +91 9650 777 079 / +91 9818 651 716 / +91 11 4904 0239