

**Part-10-One Pager Snapshot to the Latest Cases**

**CA Arpit Haldia**

<b>S. N.</b>	<b>Section</b>	<b>Case Subject</b>	<b>Case</b>	<b>Held</b>	<b>Cases Referred</b>
1.	<b>Section 107, Section 29 and Section 30</b>	<b>Entertaining writ petition beyond limitation period and Revocation of Cancellation of Registration</b>	<b>Kaelasben Maganbhai Makavana v. State of Gujarat</b> [2023] 150 taxmann.com 100 (Gujarat)	<p>- When the appeal of the petitioner against the cancellation of the GST registration was barred by limitation, by invoking the writ jurisdiction it would not be permissible for the petitioner to get away from the bar of limitation from the back door.</p> <p>- Notification No. 03/2023-Central Tax Dated 31<sup>st</sup> March 2023 has opened a window for the defaulting dealers who could now file return and pay the tax. In this view, it will be possible for the petitioner to seek prayer for revocation of the registration by taking advantage of the provisions of the notification.</p>	-
2.	<b>Section 107 and Section 112</b>	<b>Entertaining writ petition beyond limitation period and Non-Constitution of Appellate Tribunal</b>	<b>Pratap Kumar Pradhan v. Commissioner of Central Tax &amp; Goods and Services Tax</b> [2023] 150 taxmann.com 101 (Orissa)	<p>The appeal before the first appellate authority was preferred beyond four months period.</p> <p>It was contended by the revenue that since there is delay in preferring the appeal, the Court may not be in a position to condone the delay beyond four months, particularly when appellate authority has not been vested with discretion to condone the delay beyond one month after lapse of three months from the date of communication of order impugned therewith.</p> <p>The High Court held that since the petitioner wants to avail the remedy under the provisions of law by approaching 2nd appellate tribunal, which has not yet been constituted, as an interim measure subject to the Petitioner depositing entire tax demand within a period of four weeks from today, the rest of the demand shall remain stayed during the pendency of the writ petition.</p>	-
3.	<b>Section 129</b>	<b>-Detention of Goods on valuation and identification of owner in case goods are accompanied with invoice in the movement</b>	<b>S.K. Trading Co. v. Additional Commissioner Grade 2 (Appeal)</b> [2023] 150 taxmann.com 102 (Allahabad)	<p>-The High Court held that value of the supply of goods is clear from the transaction value as indicated in the tax invoice which is on record and there being nothing on record to demonstrate that the said tax invoice was not acceptable to the respondents for any reason, therefore in view of Explanation 2, Rule 138 read with Section 15(1), the transaction value was the value which is indicated in the invoice.</p> <p>-The High Court directed to release the goods holding that petitioner be treated as the owner of the goods. It relied upon the decision in the matter of <b>Margo Brush India and Others v. State of U.P. &amp; Anr</b>, whereby it was held that if goods are accompanied with invoices, then consignor/consignee should be deemed to be the owner.</p>	<p><b>-M/s Riya Traders v. State of U.P. &amp; Ors.;</b> Writ Tax No.28 of 2023 decided on 17.01.2023</p> <p><b>-M/s Margo Brush India and Others v. State of U.P. &amp; Anr.;</b> Writ Tax No.1580 of 2022 decided on 16.01.2023.</p>