

S.N.	Section	Case Subject	Case	Held
1.	Section 73	SCN asking petitioner to pay dues instead of giving show cause is a minor mistake	Sansar Auto and Retail (P.) Ltd. v. State Tax Officer [2023] 155 taxmann.com 157 (Madras) (20-09-23)	GST DRC-01 was issued to petitioner and it was challenged it was not a SCN but an order as petitioner was asked to pay the dues. The Court observed that a reading of impugned Notice indicated that respondent had asked the petitioner to pay the amount directly instead of calling upon the petitioner to show cause as to how the amounts specified therein should not be demanded. It was held to be a minor mistake as it gave an impression that it was an order. The Court disposed of the writ petition by directing respondent to issue a corrigendum to the Impugned Notice in Form GST DRC-01.
2.	Section 169	Order passed without serving notice as per Section 169(1)(b) and without considering business verticals set aside	Tvl. Diamond Shipping Agencies (P.) Ltd. v. Assistant Commissioner (ST) [2023] 155 taxmann.com 160 (Madras) (29-08-23)	Petitioner was having three business verticals of the same PAN, but respondents passed order without considering GSTR-9 and GSTR-9C for the said three business verticals. Therefore, it was claimed that if an opportunity was granted, petitioner would explain the same to the authorities. Moreover, without serving physical notice/order, impugned order was passed violating Section 169(1)(b). The Court observed that the impugned order was passed without serving notice as per section 169(1)(b) and without taking into account that petitioner was having three business verticals. Therefore, the Court quashed impugned order and directed the respondents to grant an opportunity of being heard to the petitioner.
3.	Section 140	Order held invalid as it did not mention provision under which it was passed and had no discussion on merit	Alutec Facades India (P.) Ltd. v. Assistant Commissioner (ST) [2023] 155 taxmann.com 161 (Madras) (04-09-23)	Petitioner was sought to be denied Transitional Credit from VAT Returns by referring "second proviso to the TNGST Act 2017". The Court held that reading of the impugned order indicated that there was no clear discussion as to which provision was referred to in the paragraph immediately following the table in the impugned order. There was also no discussion in the impugned order while denying the amount of Input Tax Credit that was allegedly wrongly transmitted by the petitioner in Trans-1. Thus, impugned order was <i>set aside</i> and the case was remitted back to the respondent to pass a fresh order on merits.
4.	Section 171	Order passed basis on the reports never provided to assessee held to be invalid and all contentions by the petitioner to be considered and decided	E-Homes Infrastructure (P.) Ltd. v. Competition Commission of India [2023] 155 taxmann.com 162 (Delhi) (12-09-23)	The Court observed that the reports submitted by the DGAP, pursuant to which the impugned order was passed, were not provided to the petitioner. It was also not disputed that the said reports were are not favourable to the petitioner. The petitioner had no opportunity to address the issues raised in the said reports. The Authority had examined the reports submitted by the DGAP (copies of which were not provided to the petitioner) and issued further directions for verification and investigation. The Authority had not accepted petitioner's contention to close the proceedings. Thus, it was held that the impugned order was vitiated as it was passed without following the principles of natural justice and the impugned order was <i>set aside</i> . It was further directed by the Court to the Authority that it shall consider the contentions advanced by the parties and pass a speaking order because one of the petitioner's grievances was that all contentions advanced by the petitioner were not considered and decided by the Authority.
5.	Section 155	Order passed basis upon GSTR-3B and GSTR-2A held to be valid as assessee did not avail opportunity to discharge burden casted U/Sec 155	Ansil Ibrahim v. Assistant Commissioner [2023] 155 taxmann.com 186 (Kerala) (25-09-23)	Petitioner was issued SCN under section 73(1). Petitioner did not reply to the said SCN, nor did petitioner appear for a personal hearing. Assessing Authority verified ITC as per GSTR 2A and return as per GSTR 3B for 2017-18. The Court observed that as the petitioner did not appear in pursuance of the SCN nor did he provide any document or evidence to discharge his burden under section 155 of the GST Act, the Assessing Authority had no other material before them except for Form GSTR 2A and GSTR 3B. Assessing Authority, therefore, denied the claim of ITC. If there was a difference between GSTR 2A and GSTR 3B, then it was for assessee/dealer to prove his claim of ITC by leading cogent and credible evidence for his claim. The Court thus held that when petitioner himself had given up his right to prove his claim, the Court cannot help such by entertaining writ petition.
6.	Section 107	Appellate Authority order binding upon the lower authority and appeal shall be filed if the same is not correct in view of the lower authority	Keysight Technologies India (P.) Ltd. v. Assistant Commissioner, CGST, Range-V [2023] 155 taxmann.com 187 (Calcutta) (13-09-23)	Adjudicating Authority passed the impugned order on remand by higher authority by recording that order of the Appellate Authority was not in accordance with law and he could not comply the order of the Appellate Authority and rejected petitioner's claim of refund. The Court observed that such conduct of Adjudicating Authority was highly deprecable and if such stand was taken by an adjudicating authority on his senior authority's order by contending that his officer's order was not correct and he would not obey and comply such order, there would be administrative anarchy in Government offices and such conduct was also beyond norms of the quasi-judicial authority's' function. If Adjudicating Authority was of the view that order of the Appellate Authority was not in accordance with law he could have gone to further appeal. The impugned order was set aside and the matter was remanded back to the Adjudicating Authority.
7.	Section 75	SCN mentioning "NA" against time, place and venue of hearing invalid	Brijesh Kumar Singh v. State of U.P. [2023] 155 taxmann.com 188 (Allahabad)	SCN did give any opportunity of hearing to the petitioner by mentioning "NA" against column description "Date of personal hearing". Similar endorsements were made against the columns for "Time of personal hearing" and "Venue where personal hearing will be held". Thus, it was contended that the petitioner was completely denied opportunity of oral hearing before the Assessing Authority. The Court referring to Section 75(4) held that once it is laid down that an assessee is not required to request for "opportunity of personal hearing", it remained mandatory to afford such opportunity before passing an adverse order, even if petitioner may have signified 'No' in the column meant to mark the assessee's choice to avail personal hearing, would bear no legal consequence. Cases Referred- Bharat Mint & Allied Chemicals Vs. Commissioner Commercial Tax & 2 Ors., (2022) 48 V LJ 325, M/S Hitech Sweet Water Technologies Pvt. Ltd. Vs. State of Gujarat, 2022 UPTC (Vol. 112) 1760