

S.N.	Case Subject	Case	Held
1.	If Transitional credit could not be transitioned due to Technical Glitches and was claimed in GSTR-3B, then no Interest and penalty would be payable on reversal of such credit claimed in GSTR-3B and reavilment through TRAN-1	PMA Controls India Ltd. v. Joint Commissioner of Central Tax (Appeals-II) [2023] 155 taxmann.com 502 (Madras) (20-09-2023)	Petitioner was a Central Excise Assessee, who had a sum of Rs. 12,47,610/- as un-utilized ITC as on 30-6-2017. The credit was sought to be transitioned by the petitioner and an attempt was made by the petitioner on 27-12-2017. However, petitioner was unable to transition the credit on account of technical glitches. Meanwhile, the petitioner had wrongly availed ITC in GSTR-3B on 19-10-2018 for the aforesaid amount of Rs. 12,47,610/- in its Electronic Credit Ledger and had utilized the same for discharging tax liability. Meanwhile, the petitioner was issued with a SCN dated 19-7-2021 to show cause as to why the aforesaid amount of Rs. 12,47,610/-, which was wrongly claimed as Input Tax Credit in Form GSTR-3B on 19-10-2018 should not be denied. Thereafter, petitioner made a further attempt on 17-8-2021 to transition the aforesaid Credit, which was allowed by the system. After the credit to an extent of Rs. 12.43 lakhs was transitioned of Rs. 12,47,610/- on 17-8-2021, petitioner immediately debited the aforesaid amount of Rs. 12,47,610/- which was claimed and utilized earlier. Petitioner challenged the levy interest as it was stated that no prejudice was caused to the revenue by availing of the ITC on 19-10-2018 as the aforesaid amount could not be transitioned due to technical glitches as petitioner tried to file Form Tran-1 on 27-12-2017 but was unsuccessful due to technical glitches. The Court observed that the issue was revenue neutral. Petitioner was entitled to transition the ITC lying unutilized in his CENVAT account as on 30-6-2017 of GST under the new regime. However, on account of technical glitches, credit could not be transitioned. It was however later allowed to be transitioned after the petitioner's Tran-1 application in Form Tran-1 was accepted by the respondents on 17-8-2021. The petitioner reversed proportionate amount of ITC, which was wrongly availed and utilized. Thus, as the issue was revenue neutral, the imposition of penalty/interest either under section 73(9) or Section 50(3) of the CGST Act, 2017, cannot be countenanced. Also, if petitioner had been allowed to successfully transition the credit, then and there, the amount would have available for being utilization. By availing the amount as regular credit and utilizing the same, the petitioner has not caused any loss to the revenue. Case Referred- W.P.No.22241 of 2019 vide order dated 20-6-2022 (Mad HC)
2.	ITC cannot be denied merely on account of mismatch in ITC claimed in GSTR-3B and not reflecting in GSTR-2A	Praveen Bhaskaran v. Union of India [2023] 155 taxmann.com 466 (Kerala) (20-09-2023)	Petitioner claimed ITC to the extent of Rs. 1,04,342/- and the same was denied on the ground that ITC to such an extent claimed was not affected in Form GSTR-2A and the supply dealer has not mentioned the supplies involved in the petitioner-dealer in form GSTR -1. The Court observed that Section 155 of the GST Act, 2017, takes care of such a situation wherein the fact that the assessee/dealer has taken inward supply, and the dealer has prepaid the admissible GST to the supplier-dealer and the supplier-dealer has not deposited the said tax amount to the Government. In such a situation the burden is on the person who claims the ITC to prove his claim. The paid person in such a situation is required to furnish documentary evidence to prove that such tax has been paid by him. The assessing authority denied the claim of the petitioner on the ground that the ITC claimed by the petitioner was not reflected in GSTR-2A and he did not submit any proof of the payment of the GST to the Government. The court stated that the assessing officer was required to give an opportunity to the assessee in respect of his claim for ITC, if there was difference between GSTR- 2A and GSTR-3B. If on examination of the evidence, the assessing officer was satisfied that the claim was <i>bonafide</i> and genuine, the assessee should be given the ITC. Merely on the ground that in Form GSTR-2A the tax to an extent of ITC being claimed by the petitioner was not reflected should not be sufficient to deny the claim. The assessing authority was required to independently examine the evidence irrespective of the fact that tax was not reflected in Form GSTR-2A for which the assessee claimed ITC. Case Referred- Diya Agencies v. The State Tax Officer in its judgment dated 12-9-2023, Union of India (UOI) v. Bharti Airtel Ltd and Others [2022(4) SCC 328], Suncraft Energy Private Limited and Another v. The Assistant Commissioner, State Tax, Ballygunge Charge and others [MAT 1218 of 2023] (Cal), The State of Karnataka v. M/s. Ecom Gill Coffee Trading Private Limited [2023 (3) TMI 533 SC
3.	No penalty in absence of mens rea when time gap between expiry of Eway Bill & interception is 9 Hours	Ishaan Plastics (P.) Ltd. v. Deputy Commissioner of State Tax [2023] 155 taxmann.com 463 (Calcutta) (20-09-2023)	The adjudicating authority imposed penalty for transporting the vehicle in question after expiry of e-way bill which was expired on 27.12.2022 at 11.59 p.m. and the vehicle in question was intercepted at 8.37 a.m. on 28.12.2022 that there was a time gap between the expiry of the bill and interception of the vehicle in question is about 9 hrs., which was less than a day and writ petitioner submitted that there was no intention of any evasion of tax on the part of the petitioner. The Court observed that the respondents could not make out any case against the petitioner that there was any deliberate or willful intention of the petitioner to avoid and evade the tax. In view of the facts and circumstances of the case which appeared from record and considering the two earlier orders of the Court, impugned order was set aside and a consequence, petitioner was held to be entitled to get refund of penalty deposited in question. Case Referred- Ashok Kumar Sureka v. Assistant Commissioner, State Tax, Durgapur Range WPA No. 11085 of 2021, Order dated 12 th May, 2022 in MAT No. 470 of 2022.
4.	One Liner Order without considering the submissions of Taxpayer is not a speaking Order	C.Siva Anand v. Superintendent of GST and Central Excise [2023] 155 taxmann.com 439 (Madras) (29-09-2023)	The petitioner stated that he had paid entire tax through ITC and if this fact was considered there would not be any tax liability. But authority had imposed tax, penalty, and interest. Moreover, petitioner had already paid the entire tax even prior to the initiation of assessment proceedings. In the impugned order, respondent did not discuss any ground raised by the petitioner and it was one-line order. The relevant portion of the impugned order was as follows: <i>"But they failed to pay the interest till date. Their reply dated 26.04.2023 is also not tenable. Hence, I hold that they are liable to pay an interest amount of Rs. 6,04,427/-."</i> The Court quashed the impugned order as it was a non-speaking order and the matter was remitted back to consider the petitioner's case in light of M/s. Reflex Industries Limited, Vs. The Assistant Commissioner of CGST & Central Excise, reported in 2020(2) TMI 794 – Madras.