

S.N.	Subject	Case	Held
1.	Registration cannot be cancelled retrospectively when no such action was stated in the SCN	Infinity Infomatic (P.) Ltd. v. Commissioner [2023] 155 taxmann.com 464 (Delhi) (09-10-2023)	In the instant case, the petitioner had no grievance regarding cancellation of his GST registration, the petitioner was aggrieved to the limited extent that the cancellation was with retrospective effect. It was alleged in the SCN that petitioner had issued invoices without supply of goods which had resulted in wrongful availment of ITC/refund of tax. However, no particulars as to the offending invoices, quantum of wrongful availment of ITC or any refund claimed on the said account was mentioned in SCN. The Court observed that impugned order cancelling the petitioner's GST registration did not mention any reason for cancellation of GST registration, except that no reply to the SCN had been submitted. The court found contention in the submission that SCN was bereft of any particulars, and that the impugned order is unreasoned. Thus, SCN as well as the impugned order was <i>set aside</i> to the extent it cancelled petitioner's GST registration retrospectively and since petitioner had closed the business with effect from March, 2021, therefore, it was directed that the petitioner registration shall take effect from April, 2021. This was also because the SCN did not mention that the petitioner's GST registration would be cancelled with retrospective effect. Thus, the petitioner had no opportunity to object to the same.
2.	State Tax Officer is competent to block ITC of CGST under Rule 86A of CGST Rules, 2017 Rule 86A(2) provides a window to unblock the ITC on assessee making out a case against action of department to block ITC	Ashapura Steel Metal v. Union of India [2023] 155 taxmann.com 440 (Bombay) (17-10-2023)	Petitioner contended that "State Tax Officer" who was an officer under the State machinery and appointed under MGST Act would not have jurisdiction to block the credit under the CGST Act, as he would have jurisdiction only under the MGST Act. The Court observed that provisions of Section 6 of the CGST / MGST Acts confers powers/authority on the officers of the Central Tax or of the State Tax or Union Territory as Officer under the said enactments being Officers authorized to exercise appropriate powers. The legislature was clear in its intention, when provisions of sub-section (1) of Section 6 of the CGST Act itself mandates that the officers appointed under SGST Act or UTGST Act are authorized to be proper officers for the purpose of CGST Act. The latter part of sub-section (1) which provide that subject to such conditions as the Government shall, on the recommendations of the Council, by notification specify, would not defeat the earlier part of the provision, which categorically authorizes the officers appointed under the SGST Act to be the proper officers for the purposes of the CGST Act. The Court observed that it would bring about an incongruity if the State Tax Officer was not recognized to exercise powers under Rule 86-A of the CGST Rules when he was permitted to do so under Rule 86 A of the MGST Rules. For the above reasons, court did not accept the contention that State tax officer did not have the jurisdiction to pass impugned order invoking Rule 86-A of CGST Rules. The Court distinguished Judgement in Writ Petition No. 5645 of 2022 (Guru Storage Batteries vs. State of Maharashtra) in which the Court held that Rule 86-A of CGST Rules would not permit delegation of power to an officer who was below the rank of Assistant Commissioner as mandate of Section 5 of the MGST Act as also Section 6 of the CGST Act were not brought to the notice of Court. Also for the second issue State tax officer in the order, had recorded that if the petitioner had any grievance against such order, a reply may be submitted electronically on common portal and electronically, through e-mail at any time and accordingly, on such reply, petitioner would be heard and after recording reasons if the claim of the petition was found valid and appropriate, an action to unblock credit can be taken. The petitioner addressed a detailed e-mail to the State Tax Officer raising objections regarding the blocking of the petitioner's ITC. On a perusal of order passed by the officer, it appeared that none of the contentions of the petitioner on merits were addressed by the State Tax Officer and on the contrary it was observed that petitioner had a remedy of appeal under section 107(1) of the CGST/MGST Act. Thus, order as passed by the State Tax Officer was held neither in consonance with the observations as made by the very officer in the impugned order providing for an opportunity to the petitioner to make out a case against such blocking of ITC, as also the same would be contrary to the provisions of Rule 86-A (2) of the CGST / MGST Rules, which itself provided that the Commissioner or the Officer authorized by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger, no longer exist, allow such debit.
3.	Provisional Registration cannot be cancelled without giving Opportunity of hearing	Bharat Pump House v. State of West Bengal [2023] 155 taxmann.com 438 (Calcutta) (01-09-2023)	SCN for cancellation of registration was issued for mismatch of address in trade license and that of address given in partnership deed and registration stood cancelled by order dated 30 th January, 2018. The Court observed that since appellant did not file its response, thus registration stood cancelled by order and the authority could not have been faulted for proceeding <i>ex parte</i> . Nevertheless, court also stated that while doing so, the authority ought to have informed the appellant and fixed the date for personal hearing after which he could have acted. This being a mandate under Rule 24(3) of the said Rules, the same could not be bypassed. Therefore, matter was relegated back to the authority to enable the appellant to file its response to the allegation in the SCN and the authority was asked to afford an opportunity of personal hearing. Further it was also states that if appellant was able to reconcile mismatch pointed out in the SCN, if there were no other legal impediment, the order of cancellation of the provisional registration could be set aside and registration can be restored to enable appellant to file its returns, pay taxes along with other statutory dues.
4.	Notice sent on incorrect email not valid	R. Soundararajan & Co. v. Deputy Tax Officer [2023] 155 taxmann.com 385 (Madras) (07-08-2023)	The department contended that petitioner had not responded the notice which was sent to the e-Mail I.D of petitioner. On verifying the said fact it was seen that the respondents had sent the notice to the some other e-Mail I.D., which was not the e-Mail I.D. of the petitioner. After receipt of the impugned order only, the petitioner came to know that the notice was sent to e-Mail I.D. and the said e-Mail I.D. was not belonging to the petitioner. Therefore, the Court was of the considered opinion that there it was clear violation of principles of natural justice. Accordingly, the impugned order, dated 27-4-2022, was quashed. The petitioner was directed to submit his objections and the respondent was directed to consider the objections of the petitioner.