

S.N.	Subject	Case	Held
1.	Stay on Recovery subject to deposit of 20% of the amount as Tribunal not yet constituted	Gautam Kumar v. State of Bihar [2023] 155 taxmann.com 586 (Patna) (03-10-2023)	The Court observed that the petitioner was desirous of availing statutory remedy of appeal against the impugned order before the Appellate Tribunal under Section 112. However, due to non-constitution of the Tribunal, the petitioner was deprived of his statutory remedy. Under the circumstances, petitioner was also prevented from availing the benefit of stay of recovery of balance amount of tax upon deposit of the amount as contemplated under Section 112(8). The Court thus disposed of instant writ petition to stay the demand subject to deposit of a sum equal to 20 percent of the remaining amount of tax in dispute, if not already deposited, in addition to the amount deposited earlier under Section 107(6). The petitioner cannot be deprived of the benefit, due to non-constitution of Tribunal by respondents themselves. The recovery of balance amount, and any steps that may have been taken in this regard will thus be deemed to be stayed Case Referred -SAJ Food Products Pvt. Ltd. vs. The State of Bihar & Others in C.W.J.C. No. 15465 of 2022.
2.	Credit Ledger blocked by State Tax Officer not valid as CGST Rules allow only by Officer not below Assistant Commissioner	Guru Storage Batteries v. State of Maharashtra [2023] 155 taxmann.com 571 (Bombay) (13-09-2023)	In the instant case, Electronic Credit Ledger was blocked under the provisions of Rule 86A of CGST Rules, 2017. The contention was that blocking of the Electronic Credit Ledger (ECL) was done by State Tax Officer and it cannot be done by State Tax Officer being an Officer below the rank of Assistant Commissioner. The court observed that a perusal of Rule 86A of the CGST Rule, 2017, indicate that such a blocking can be done by the Commissioner or an officer authorized by him in this behalf, not below the rank of Assistant Commissioner. However, the authority exercising the power did not fall within that category and was an Officer of the rank below that of the Assistant Commissioner. Though the Notification dated 24/1/2020 had been relied upon to contend that the power was delegated by the Commissioner to the authority, the same was under the State GST Act, whereas Rule 86-A of the aforesaid Act would contemplate a delegation by way of amendment to the Rule. Notification dated 24/01/2020, was held to be of no assistance and action on behalf of the revenue in blocking the ECL was quashed. Distinguished in the matter of Ashapura Steel Metal v. Union of India [2023] 155 taxmann.com 440 (Bombay) (17-10-2023)
3.	-Cancellation of Registration on an order passed without any reasoning -Department not required to be told by the Court as to what would be the position in law as also the correct approach in law, the officers need to follow. -There had to be a sense of responsibility and accountability, any mechanical approach in this regard, even to justify such action, could not be the stand of the department	Makersburry India (P.) Ltd. v. State of Maharashtra [2023] 155 taxmann.com 542 (Bombay) (03-10-2023)	In the instant case, the only reason set out in SCN to cancel registration, was: <i>"In case, Registration has been obtained by means of fraud, willful misstatement or suppression of facts."</i> SCN also suspended registration of the petitioner. Contention of Petitioner against the SCN - It was contended that they had replied to the SCN inter alia contending that Directors of the Company had appeared before the Officer and had given their respective statements as also submitted all the relevant documents. It was also contended that as initially the documents submitted were not accepted by the department, they were forwarded by email. It was also pointed out that all documents were loaded on the portal while obtaining the registration, details of which were also set out in the reply. Further, staff of the department had visited petitioner's registered place of business, as also were furnished documents. It was hence the petitioner's case that the petitioner had cooperated with the department on all aspects. Order by the Officer -The registration was cancelled stating that <i>"You could not explain the reason for not being presented at the time of visit at P.O.B and A.P.O.B. of MAKERSBURRY INDIA PRIVATE LIMITED, there were no any business activity found nor any stock found. Both the Directors or any Authorized Legal Representative not represented the case or could furnish any statement satisfactorily. The reply submitted by the taxpayer dt. 25/08/2022 is not relevant to the point raised in show-cause notice issued by this office. Hence, the same is not acceptable to this office. The effective date of cancellation of your registration is 10/04/2021."</i> Observation by the Court on order by Appellate Authority - In the backdrop of voluminous material being placed for consideration before the appellate authority, it appeared that the authority proceeded to pass impugned order without considering such materials, thereby rejecting the petitioner's appeal. The appellate authority merely referred to the documents which were submitted. There was no discussion whatsoever to come to such conclusion and more particularly after discussing the materials as submitted by the petitioner. Thus, clearly there was patent non-application of mind on reaching such conclusion without recording any reason whatsoever to reject the petitioner's appeal and maintain cancellation of registration. Observation by the Court on the impugned order - SCN itself was defective, as it did not set out any reasons/grounds which could be responded by the petitioner. The reasons which were furnished, as noted, were undoubtedly vague. It was difficult to conceive as to how such contents of the notice could be responded when no reasons to support such allegation were provided in the SCN. The order passed cancelling the petitioner's registration was inherently defective, as again no reasons were furnished dealing with the case as set out by the petitioner in the reply as filed to the SCN. There was no discussion whatsoever on any of the documents. Things did not stop at this, as the appellate authority before whom all such materials were furnished again proceeded on total non-application of mind of the materials before it. Several documents although were submitted for consideration of the appellate authority, there was not a semblance of consideration of any of those documents, much less any discussion on the documents to consider the case of petitioner. Held by the Court -The Court set aside the order and opined that that time and again the department was not required to be told by the Court as to what would be the position in law as also the correct approach in law, the officers need to follow. The Courts are being repeatedly called upon to adjudicate similar issues. There had to be a sense of responsibility and accountability, any mechanical approach in this regard, even to justify such action, could not be the stand of the department. Cases Referred - C.P. Pandey & Co. vs. Commissioner of State Tax (2023) 10 Centax 11 (Bom.), Monit Trading Pvt. Ltd. vs. UOI (2023) 8 Centax 248 (Bom.), Ramji Enterprises & Ors. vs. Commissioner of State Tax & Ors. WP No. 277 of 2023 dated 10.07.2023, Nirakar Ramchandra Pradhan vs. UOI & Ors, WP No. 2534 of 2023 dated 11.09.2023, Lakkad Brothers vs. State of Gujarat (2023) 4 Centax 364 (Guj.), Quality Traders vs. Yogesh Kumar (2023) 10 Centax 150 (Del.) and DRS Wood Products vs. State of Uttar Pradesh 2022(64) G.S.T.L. 132 (All.).