

Part-13-One Pager Snapshot to the Latest Cases

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S. N.	Section	Case Subject	Case	Held	Cases Referred
1.	Section 50	No Interest on Input Tax Credit availed but not utilized	Grundfos Pumps India (P.) Ltd. v. Joint Commissioner of GST & Central Excise [2023] 150 taxmann.com (Madras) 176	<p>The liability to pay interest under Section 50(3) of the CGST on account of the Amendment in 2022 that has retrospective effect from 2017 is only when ITC has been wrongly availed and utilized.</p> <p>In the present case, the original error of non-maintenance of ECL is admittedly attributable to the department. Moreover, the petitioner has not utilized the credit.</p>	Commissioner of Central Excise v. Bombay Dyeing Manufacturing Company-(2007) 215 ELT3
2.	Section 56	Interest on Refund granted in pursuance of appeal order	AC Impex v. Union of India [2023] 150 taxmann.com (Delhi) 175	<p>The petitioner had filed refund applications against the export made which were rejected by the revenue. The refund was initially rejected by subsequently granted in pursuance of the Court Order.</p> <p>The issue before the High Court was the date from which statutory interest under Section 56 of CGST Act would get triggered. The petitioner claims that interest should be triggered from the date when the initial application for refund was filed and the revenue asserts that in terms of the proviso appended to Section 56 of the CGST Act, interest will get triggered 60 days after the date when this court passed an order directing consideration of the application.</p> <p>The High Court held that the proviso to Section 56, as indicated above, is an exception to the main part of the Section 56 of the CGST Act. The proviso is triggered only when the facts of a case do not fall in the main part. The proviso envisages a situation where, while processing an application for refund, the respondents/revenue are required to deal with a <i>lis</i> and the refund is a consequence of that <i>lis</i>. Where there is no <i>lis</i> with regard to either the quantum or the value, then in our view, the proviso will have no application. The wordings of the proviso in that context are revealing. The proviso begins with the following sentence <i>“Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality...”</i></p> <p>Thus, petitioner was held to be right in its contention that interest should trigger in accordance with the main part of Section 56 of the CGST Act, i.e., from 18.04.2018, and that interest should run, both on CGST and DGST, up until the date when the amount was remitted to the petitioner.</p>	<p>- Commissioner of Income Tax, Mysore, Travancore-Cochin and Coorg, Bangalore and Anr. v. The Indo Mercantile Bank Ltd and Anr., 1959 Supp (2) SCR 256</p> <p>- S. Sundaram Pillai and Ors. v. V.R. Pattabiraman and Ors., AIR 1985 SCC 582, paragraph 27</p>
3.	HSN 9972 and HSN 9985	Tax Rate on Renting of Warehouse	Sudhakar Traders v. State of Andhra Pradesh [2023] 150 taxmann.com (Andhra Pradesh) 174	<p>Renting Warehouse to store Agricultural Produce is considered as supply of service, and the same is not classifiable as "loading, unloading packing, storage or warehousing of agricultural produce, under Sl. No. 54(e) of SAC 9985 of the Notification-11/2017- C.T. (Rate) dated 28th June 2017. It would be classifiable under SAC 997212 and would attract GST @ 18% vide entry Sl. No. 16 (iii) of Notification No. 11/2017 C.T (Rate) dated 28.06.2017.</p>	-M/s SSSVK Cold Storage Private Limited AAR Andhra Pradesh AAR/AP/02(GST)/2018