

**Part-14-One Pager Snapshot to the Latest Cases**

**CA Arpit Haldia**

<b>S. N.</b>	<b>Section</b>	<b>Case Subject</b>	<b>Case</b>	<b>Held</b>	<b>Cases Referred</b>
1.	73	<b>Ex-Parte Assessment order without following Principle of Natural Justice</b>	<b>CICO Patel JV v. Union of India</b> [2023] 150 taxmann.com 226 (Patna)	Notwithstanding the statutory remedy, the high court is not precluded from interfering where, <i>ex facie</i> , an opinion is formed that the order is bad in law on account of following reasons -  (a) violation of principles of natural justice, i.e. Fair opportunity of hearing. No sufficient time was afforded to the petitioner to represent his case; (b) order passed <i>ex parte</i> in nature, does not assign any sufficient reasons even decipherable from the record, as to how the officer could determine the amount due and payable by the assessee. The order, <i>ex parte</i> in nature, passed in violation of the principles of natural justice, entails civil consequences; (c) The authorities not to have adjudicated the matter on the attending facts and circumstances.	-
2.	<b>Para 5 of Schedule III and 9406</b>	<b>Whether supply of Pre-Fabricated Building is supply of goods or supply of completed building</b>	<b>Radiant Enterprises P. Ltd. v. Joint Commissioner, Central Goods and Services Tax &amp; Central Excise (Appeal I)</b> [2023] 150 taxmann.com 225 (Calcutta)	The petitioner contended that since they have purchased a pre-fabricated building, which consisted of factory-made components or units that are transported and assembled on-site to form complete building, therefore the same shall not be liable to tax by virtue of Paragraph 5 of Schedule III i.e. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.  Considering the following reasons recorded by the Appellate Authority in holding against the petitioners, the High Court declined to interfere with the impugned order of the Appellate Authority-  “I find that the appellant has purchased a Prefabricated Building classifiable under GST HSN Code 9406 from M/s. Eveready Industries Ltd. Now a prefabricated building, informally a prefab, is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building. Thus, it is evident from the invoice issued by M/s. Eveready Industries Ltd that they have supplied goods classifiable under GST HSN Code 9406 to the appellant which is not specified in Section 7(2)(a) of CGST Act, 2017 and probably used logistic services such as warehousing, flexi-storage by the appellant. Thus, it is evident that M/s. Eveready Industries Ltd have not provided any Construction services of commercial buildings classifiable under GST service code number 99414. Thus, the contention of the appellant cannot be sustainable”	-
3.	<b>Section 83</b>	<b>Issuance of Fresh Provisional Attachment after completion of one Year</b>	<b>Madhav Copper Ltd. v. State of Gujarat</b> [2023] 150 taxmann.com 224 (Gujarat)	The petitioner contended that there was no power with the authorities to extend the provisional attachment beyond one year with a fresh order.  The High Court observed that the proceedings for adjudication have already commenced with issuance of SCN under Section 74, therefore it would be rather a proper course to be adopted to direct the authorities to complete the adjudication proceedings time-bound. Once the proceedings are over, the rights of the parties shall stand crystallized leaving the order of provisional attachment to its own fate.	-
4.	<b>Section 29</b>	<b>Cancellation of Registration from Retrospective date wherein SCN did not provided any such fact</b>	<b>Aditya Polymers v. Commissioner of Delhi Goods and Services Tax</b> [2023] 150 taxmann.com 223 (Delhi)	The High Court observed that the SCN issued to the petitioner did not mention that the proper officer proposed to cancel the registration with retrospective effect. Thus, the petitioner had no opportunity to address any proposed action of cancellation of registration <i>ab initio</i> .  The High Court disposed of the petition with the direction that the cancellation of the petitioner's GST registration would take effect from 11.12.2020 and not from 01.07.2017, since the petitioner submitted that the they would have no objection if the registration is so cancelled from the date of SCN.	-