

Part-15-One Pager Snapshot to the Latest Cases

CA Arpit Haldia

Cases Referred

S. N.	Section	Case Subject	Case	Held	Cases Referred
1.	Section 29	Cancellation of Registration without following principle of Natural Justice	Precitech Engineers v. State of U.P. [2023] 150 taxmann.com 214 (Allahabad)	Writ Petition was allowed considering the fact that the order impugned cancelling the registration was prima facie without application of mind and the case was thus squarely covered by the judgment in the case of <i>M/s Chandra Sain (Supra)</i> and the issue of non-fixation of time and date is squarely covered by the judgment rendered in the case of <i>M/s Jaiprakash Thekedar (Supra)</i> , the writ petition deserves to be allowed on both the counts.	<i>Mr. Chandra Sain v. U.O.I.</i> ; [2022 U.P.T.C. (VOL.112) - 1861]. <i>M/s Jaiprakash Thekedar v. Commissioner, Commercial Taxes and another;</i> [(2023 U.P.T.C. (VOL.113) - 162]
2.	Section 69 and Section 132	Release on Bail	Suresh Jajra v. Union of India [2023] 150 taxmann.com 213 (Rajasthan)	It was submitted by the petitioner that he is neither owner of Ayodhya Food Products or nor partner of the firm and the petitioner and other co-accused had retracted the statement given by under Section 70 of GST Act. It was further submitted that maximum punishment in this case is five years and conclusion of trial may take long time and that similarly situated co-accused were enlarged on bail by the Court and by Co-ordinate Bench of the Court. The High Court considering the contentions put-forth and taking into account the facts and circumstances of the case and without expressing any opinion on the merits of the case deemed it just and proper to enlarge the petitioner on bail.	-
3.	Section 74	Writ Petition not maintainable as matter pending before the assessing officer	North End Foods Marketing (P.) Ltd. v. State of U.P [2023] 150 taxmann.com 212 (Allahabad)	The petitioner was directed that all issues raised were still open to be agitated before the Assessing Officer and therefore the High Court do not find any good ground to entertain the writ petition. The writ petition was disposed of with the observation that all the issues raised by the petitioner, especially the issue with regard to the jurisdiction of the Assessing Officer to proceed under Section 74, shall be raised before the Assessing Officer in reply to the show cause notice, the subject matter of challenge herein.	-
4.	Section 169	Posting of Order with incorrect and incomplete address is not a valid delivery	Global Construction v. Union of India [2023] 150 taxmann.com 204 (Jharkhand)	The High Court observed that firstly certified copy of impugned order was provided to the appellant on 19th December 2020 which means that by that time the relaxation of limitation period as per the directions of the Apex Court in <i>Suo Motu Writ Petition (Civil) No. 03/2020</i> had commenced due to the COVID lockdown and secondly, the booking journal or the track consignment report of the speed post does not contain the complete address of the petitioner. The High Court observed that it is apparent that notices were issued on incorrect or inadequate address. The presumption of proof of service of notice is a rebuttable piece of evidence and the track consignment report having an incomplete address of the petitioner, valid service of notice of the order in original cannot be presumed. Section 27 of the General Clauses Act as quoted at paragraph-6 of the impugned appellate order also provides that service shall be deemed to be effected by properly addressing, prepaying and posting it be registered post. Thus, it was held that petitioners have therefore rightly contended that it could not have approached the appellate authority earlier and thus the grounds of rejection of the memo of appeal was held to be not tenable on facts.	-

