

**Part-18-One Pager Snapshot to the Latest Cases**

CA Arpit Haldia

S. N.	Section	Case Subject	Case	Held	Cases Referred
1.	Section 98	Decision of AAR is void-abinitio when the fact regarding pendency of proceedings was not brought before the AAR	<b>Srico Projects (P.) Ltd.</b> [2023] 150 taxmann.com 295 (AAR- TELANGANA)	Section 98(2) of the CGST/TGST Act, 2017 states that Authority for Advance Ruling shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act. Therefore the application was liable to be rejected under Section 98(2) of the CGST/TGST Act, 2017. Taxpayer has not brought the issue to the notice of the Authority for Advance Ruling at any stage of the Advance Ruling proceedings including at the time of the personal hearing dated 28.06.2022. Therefore the applicant has obtained the Advance Ruling by suppressing the facts and hence the Order issued in the reference 5th cited is liable to be declared as void <i>ab initio</i> .	-
2.	Section 29 and Section 30	Penalty/Late Fee for delay in filing of Return cannot be levied upon Taxpayer when the application for revocation of cancellation of registration was rejected without any valid Show cause notice and reason	<b>Ishwar Chand Proprietor of Bhagwati Trading Co. v. Union of India</b> [2023] 150 taxmann.com 294 (Delhi)	<p>The High Court observed that the order dated 14.12.2020, rejecting the petitioner's application for revocation of cancellation of GSTIN registration was unsustainable. It provided no reason as to why the petitioner's application was rejected. The only reason was that the petitioner had not responded to the Show Cause Notice dated 27.10.2020. It was hard to accept that there could be any meaningful response to the said Show Cause Notice. It provided no reason at all for proposing to reject the petitioner's application for revocation of cancellation.</p> <p>The petitioner's principal contention was that it had already complied with the requirement of filing the returns on the date when the order cancelling its registration was passed and, therefore, the said order was unsustainable.</p> <p>The High Court was thus of the view that from the date of the petitioner filing an application for revocation of its cancellation, that is, 16.10.2020, the petitioner cannot be held responsible for not filing its returns during the period when the registration stood cancelled. Thus, for the purpose of calculating any penalty for the late filing of the returns, the period, 16.10.2020 to 22.04.2022, is liable to be excluded.</p>	-
3.	99	Architectural Services provided to Local Authority for purposes referred in 2th Schedule of Article 243W of Constitution of India	<b>Ajit Babubhai Jariwala</b> [2023] 150 taxmann.com 292 (AAR - GUJARAT)	<p>'Architectural Consultancy Service' provided by the applicant to Surat Municipal Corporation [SMC] for construction of SMIMER Hospital &amp; College Campus is covered under entry no. 3 of notification No. I212017-Central (Rate) dated 28.6.2017 &amp; thus is exempt from GST.</p> <p>-If the applicant provides sub contract of pure services to another contractor of the SMC the supply would not fall within the ambit of entry no. 3 of the notification No. I212017-Central (Rate) dated 28.6.2017 and would be leviable to GST.</p>	<b>Dilip Kumar &amp; Company</b> [20 ] 8 (361 ) E.L.T. 577 (SC)