

**Part-21-One Pager Snapshot to the Latest Cases**

**CA Arpit Haldia**

S. N.	Section	Case Subject	Case	Held
1.	Section 29	Decision of Appellate Authority on issues neither part of Show Cause Notice and nor part of Order	Ajay Building Material v. State of U.P. [2023] 151 taxmann.com 6 (Allahabad)	<p>The High Court held that the order dated 01.12.2020 fell short of the requirement of Article 14 of the Constitution of India and the appellate order dated 30.12.2021 clearly exceeds the power conferred upon the appellate authority as it decides the appeal on the issues which were neither a part of the show-cause notice nor was a consideration when the order dated 01.12.2020 was passed.</p> <p><b>Cases Referred- M/s Chandra Sain, v. U.O.I &amp; Ors. (Writ Tax No.147 of 2022) decided on 22.09.2022 as well as M/S Precitech Engineers v. State of U.P. &amp; Ors. (Writ Tax No.1583 of 2022) decided on 14.03.2023</b></p>
2.	9966	Diesel Reimbursement to form part of Vehicle Hire Charges	Uttarakhand Public Financial Strengthening Project [2023] 151 taxmann.com 5 (AAR-UTTARAKHAND)	<p>The Authority held that without fuel the motor vehicle does not operate (run) and without running i.e. moving from one place to another, the act of motor vehicle hire services does not happen. The motor vehicle hire services have the integral component of running/ operating the vehicle to one place to another for transportation. Therefore, to claim to provide the said services, actual transportation has to take place and without fuel this cannot happen. The contract entered between the applicant and the provider of services is for motor vehicle hire services, wherein the liability to arrange fuel and the maintenance of the vehicle, so deployed lies with the service provider and is a comprehensive contract with the consideration which varies depending upon the kilometer travelled. Therefore, reimbursement of expenses for providing said services, under any head is nothing but the additional consideration for the provision of said services and attracts GST on the total value.</p> <p><b>Cases Referred- M/s. Goodwill Auto's, Hubballi; Dharwad (Karnataka AAR), M/s Vinayak Air Products Pvt. Ltd (Uttarakhand AAR), M/s Gurjinder Singh Sandhu (Uttarakhand AAR), M/s Tara Genset Engineers (Uttarakhand AAR)</b></p>
3.	Section 69 and Section 132	Bail granted as petitioner had faced incarceration for more than 1½ years, complaint still at summon stage, other accused extended benefit of bail	Kawaljot Singh v. Superintendent Preventive, CGST [2023] 151 taxmann.com 4 (Punjab & Haryana)	<p>The High Court observed that the quantum of amount which the petitioner was involved was yet to be decided at the time of trial. The petitioner had already faced incarceration for more than 1½ years. The complaint is still at the summoning stage. The other two accused had already been extended the benefit of default bail and one more co-accused was granted regular bail by the Court who is stated to be at parity with the present petitioner.</p> <p>Thus, the High Court considering the aforesaid facts and circumstances and also considering the total custody of the petitioner which was more than 1½ years, this Court deems it fit and proper to grant regular bail to the petitioner.</p>
4	Section 65, Section 73/74 and Section 161	Rectification of Audit Report	Singh Caterers and Vendors v. Union of India [2023] 151 taxmann.com 3 (Patna)	<p>The petitioner was aggrieved with the audit report issued under section 65(6) and the non-consideration of the rectification application, the petitioner made under Section 161 of the Act.</p> <p>The High Court observed that re-examination of the Audit Report by application under section 161 is not a permissible exercise. The Assessing Officer had rightly found that there was no error apparent on the face of the record, which could be rectified under section 161 and that in any event, section 73 proceedings had been initiated based on the final audit report. The Assessing Officer has also noted that submission if any made by the tax payer would be taken on record. The Proper Officer has looked at the audit report and has recorded his satisfaction in the show-cause notice on items raised in the audit report and which enables assessee to raise objections against the same.</p> <p>Therefore, the High Court was of the opinion that there was no reason why writ petition should be entertained when the rectification application, on which basis the proceedings under section 73 is sought to be kept in abeyance. If the Assessing Officer has not completed the proceedings, the petitioner would be entitled to file his objections and seek for consideration of the same before the Assessing Officer.</p>