

S. N.	Section	Case Subject	Case	Held
1.	Section 74 and Section 75	A vague notice is violation of provision in Section 75 since the Statute itself prescribes for affording reasonable opportunity and any deficiency in that regard vitiates the result	Durge Metals v. Appellate Authority and Joint Commissioner State Tax [2023] 150 taxmann.com 333 (Madhya Pradesh)	<p>The petitioner contended that SCN was vague to the extent of not communicating the relevant information and material thereby disabling the petitioner to respond to the same, and therefore, all consequential actions of passing of order and dismissal of appeal are vitiated in law.</p> <p>The High Court observed that even though the petitioner had not specifically raised the said ground before the appellate authority but the fact remained that mandatory provisions of Section 74 of GST Act make it incumbent upon the Revenue to ensure the show cause notice to be speaking enough to enable the assessee to respond to the same. However, SCN revealed that it neither contained the material and information nor the statement containing details of ITC transaction under question. It was further observed that Section 75 of GST Act is a complete Code which prescribes for various stages for determination of wrongful utilization of ITC while following the concept of reasonable opportunity of being heard to the assessee. Since the Statute itself prescribes for affording reasonable opportunity, it is incumbent upon the Revenue to afford the same and any deficiency in that regard vitiates the result. The High Court held that it had no manner of doubt that the very initiation of the proceedings by way of show cause notice was vitiated for the same being vague.</p> <p>Case Referred- Sidhi Vinayak Enterprises v. The State of Jharkhand & ors) including WP(T) No.745/2021 14thth, September 2022,</p>
2.	Section 107	No power to entertain the application for condonation of delay beyond permissible period provided	Farhat Construction v. State of Chhattisgarh [2023] 150 taxmann.com 334 (Chhattisgarh)	<p>The High Court held that there is no power to entertain the application for condonation of delay beyond permissible period provided under the Act of 2017. The High Court further held that petitioner has wrongly contended that the period of delay has wrongly been assessed by Appellate Authority in the light of the order of Hon'ble Supreme Court in case of Re-cognizance for extension of limitation (Supra), the matter be remitted back to the First Appellate Authority as even after excluding period between 15.03.2020 to 28.02.2022, filing of an appeal would not come within extended period of limitation as ordered by Hon'ble Supreme Court and therefore, said exercise would serve no purpose</p> <p>Cases Referred-Nandan Steels And Power Limited Vs. State of Chhattisgarh & Ors. in W.A. No. 104 of 2021, decided on 10.08.2022.</p>
3.	Section 174	GAIL cannot be asked to pay amount to DGGSTI since GAIL did not owe any amount to other party	Gail (India) Ltd. v. Directorate General of GST Intelligence [2023] 150 taxmann.com 335 (Delhi)	<p>Petition was filed against the order dated 08.03.2018 issued by DGGSTI under Section 87(b) of Chapter-V of the Finance Act, 1994 read with Section 174(2)(e) of the 'CGST Act' calling upon GAIL to pay a sum of Rs. 13,13,07,485/- which, DGGSTI believes, is owed by GAIL to the other party.</p> <p>The High Court held that there was no material to show that any such amount was due and payable by GAIL. GAIL and DGGSTI are <i>ad-idem</i> that the only amount that GAIL was required to pay was approximately Rs. 6.54 crores after the other party has issued the invoice of Rs. 1.01 crores. In view of the above, the impugned order was set aside and GAIL was however restrained from making any payments to other party for a period of four weeks.</p>
4	Section 73 and Section 74	Ex-Parte order passed in violation of principle of natural justice is illegal and is a fit case for interference by the High Court	Lucky Traders v. State of Bihar [2023] 150 taxmann.com 338 (Patna)	<p>In the instant case, ITC claim of the petitioner was rejected and tax, including interest and penalty, had been imposed, without providing any further notice to the petitioner..</p> <p>The High Court observed that notwithstanding the statutory remedy, it was not precluded from interfering where, <i>ex facie</i>, the order was bad in law on account of the two 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. The matter was thus remanded back.</p>