

S. N.	Section	Case Subject	Case	Held
1.	Section 74	SCN requiring the assessee to appear for personal hearing on the "date, time and venue, if mentioned in table below", but no date, time and venue for personal hearing shown in the notice.	Concord Tieup (P.) Ltd. v. State of Madhya Pradesh [2023] 151 taxmann.com 41 (Madhya Pradesh)	<p>The petitioner contended that SCN under Section 74 was issued making mention about personal hearing to the effect that "you may appear before the undersigned for personal hearing either in person or through authorized representative for representing your case on the date, time and venue, if mentioned in table below", but no date, time and venue for personal hearing was shown in the notice.</p> <p>The High Court held that in the table given, captioned as "Details of personal hearing etc.", no Date, Time and Venue of personal hearing was shown and in front of columns 3,4&5 of Date, Time and Venue, NA was mentioned, which was sufficient to infer that no personal hearing was given to the petitioner before passing the impugned order dated 24.08.2022. The High Court further observed that it is well settled that when due opportunity of hearing, as required under the law, has not been afforded and principle of natural justice has not been followed, then the question of availability of alternative remedy does not come in the way for exercising jurisdiction under Article 226 of the Constitution of India. The impugned order was held to be not sustainable and was quashed and remitted back.</p> <p>Case Referred- Bharat Mint & Allied Chemicals Vs. Commissioner of Commercial Tax, 2022 (59) G.S.T.L. 394 (All.)</p>
2.	Section 5 of IGST Act, 2017	Refund of IGST paid on Ocean Freight	Krishak Bharati Co-operative Ltd. v. Union of India [2023] 151 taxmann.com 42 (Gujarat)	<p>The High Court held that since Entry No.10 of Notification No.10/2017- IGST (Rate) dated 28.6.2017 has already been declared ultravires by Hon'ble Apex Court, therefore amount of Rs. 6,98,00,420/- paid by the petitioner as IGST on ocean freight of goods imported during July, 2017 to December, 2019 be refunded alongwith the statutory rate of interest.</p> <p>Case Referred- ADI Enterprises v. UOI being Misc. Civil Application No. 1 of 2020 in Special Civil Application No. 10479 of 2019</p>
3.	Section 129 and Section 130	Order being passed in the name of driver does not preclude cosignor or the consignee to challenge the confiscation of goods along with supporting documents evidencing their ownership	Delhivery Limited v. State of U.P. [2023] 151 taxmann.com 43 (Allahabad)	<p>It was contended by the petitioner that since the impugned order was passed against the driver, it would not be open for the cosignor or the consignee to challenge such order before the appropriate forum. It is otherwise not disputed that the impugned order is appealable under the statute.</p> <p>The High Court observed that the cosignor or the consignee were always at liberty to challenge the confiscation of goods along with the supporting documents evidencing their ownership and merely because the order had been addressed to the driver of the vehicle would not be to the prejudice of the rights and contentions of the cosignor or the consignee and thus court was not inclined to entertain the challenge to the order impugned directly in the writ petition.</p>
4	Section 69 and Section 132	Grant of Bail on deposit of amount and execution of personal bond	[2023] 151 taxmann.com 44 (Rajasthan) Gaurav Kakkar v. Directorate General of Gst Intelligence, Jaipur Zonal Unit	<p>The High Court observed that petitioner was arrested on 04.11.2022 and since then, he was in judicial custody. The challan of the case had already been presented and no investigation was pending.</p> <p>Taking into consideration the investigation and evidence so collected, in the opinion of the High Court, the trial would take considerable time and it may happen, if denied bail, the judicial custody be prolonged beyond the statutory period of punishment which was for five years. The High Court granted bail to the accused petitioner under Section 439 Cr.P.C with a condition to deposit Rs. 3 crores by the petitioner before the respondent Department under protest and execution of a personal bond in a sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- each to the satisfaction of learned trial court.</p> <p>Case Referred- Vinay Kant Ameta v. UOI (Criminal Appeal No. 60/2022) decided on 10.01.2022 (SC)</p>