

S. N.	Section	Case Subject	Case	Held
1.	Section 129 and Section 107	Once order is stayed, officer can release the goods subject to such other safeguards that may be imposed by the appellate authorities under the respective Acts	Haresh Kumar v. Assistant Commissioner (ST) [2023] 150 taxmann.com 380 (Madras)	<p>An order of detention in Form GST MOV-06 was issued. Petitioner filed appeal under Section 107 of the CGST Act, 2017 before the Appellate Authority and paid 25% of the disputed penalty, whereas, respondents had imposed penalty equivalent to 100% value of goods that was detained. It was contended that once there was a pre-deposit of the amount in terms of Section 107(6), the respondents ought to have released the goods.</p> <p>The High Court held that once order is stayed, the respondents can release the goods subject to such other safeguards that may be imposed by the appellate authorities under the respective Acts. The very purpose of fixing the mandatory pre-deposit is to do away with the procedure of granting stay after hearing, which was delaying the disposal of the appeal earlier. The Officer who detained the goods becomes functus officio, once there is a mandatory pre-deposit, the order has no force and all further recovery proceedings will be subject to the final outcome of the appeal. The High court directed the petitioner to deposit the maximum penalty of 200% of the tax to safeguard the interest of the revenue.</p> <p>Cases Referred- TCI Freight v. Assistant Commissioner (ST) [2022] 143 taxmann.com 115 (Madras)</p>
2.	Section 73 and Section 6	Second Officer cannot initiate proceedings by issuing DRC-01 and passing the order on the same matter which is already seized by the first officer by issuing DRC-01A	SSB Petro Products v. Assistant Commissioner, State Tax [2023] 150 taxmann.com 381 (Calcutta)	<p>In the instant case, issue before the High Court was whether an officer (referred as "second officer") could have initiated fresh proceedings by issue of DRC-01 and passing order thereafter, when another officer (referred as "first officer") was seized of the matter and intimation in Form GSTDRC-01A dated 05.03.2021 was issued to which the appellants had submitted their reply dated 08.03.2021 and the said reply was neither considered nor rejected and the matter was kept pending. The appellant further stated that he was not aware of the said notice for being uploaded in the portal and they came to know of the same only after the sum of Rs. 1,84,930/- was paid from their electronic credit ledger and immediately thereafter, the appellants applied for a copy of the order and thereafter preferred the appeal but by then the period of limitation for filing the appeal had expired.</p> <p>The High Court observed that the option which was available to the first officer was to consider the representation/reply and if not satisfied, could have proceeded to issue SCN under Section 74(1) of the Act which option the first officer did not exercise and the matter was left to linger. Thus, the preliminary proceedings could not have been initiated by the second officer when proceeding initiated by the first officer for the very same amount on the very same allegation was not taken to the logical end. It was further observed that when the statutory appeal for the order passed by the second officer was pending before the appellate authority, the first officer had dropped the proceedings. From the final report of the first officer, it was seen that the proceedings were closed by the first officer only on 24.01.2023. Thus, for all purposes, it was deemed that the proceedings initiated by the first officer pursuant to intimation dated 05.03.2021 had attained finality and on the said date, the appeal as against the proceedings initiated by the second officer was already pending before the appellate authority.</p> <p>Thus, the High Court considering peculiar facts and circumstances held that the appeal should not be treated to be as time barred.</p>
3.	Section 29 and Section 30	Cancellation of registration of the recipient for wrongful availment of ITC as the supplier did not deposit the tax.	Electro Steel Corporation v. State of Jharkhand [2023] 150 taxmann.com 407 (Jharkhand)	<p>The registration of the petitioner was cancelled on account of the allegation that they have availed excess credit than the ITC accrued in GSTR-2A/2B in violation of Provisions of Section 16. It was contended by the petitioner that they had duly paid the amount to the supplier but supplier neither filed the return and nor filed GSTR-1.</p> <p>The High Court observed that the claim of the petitioner than they have paid the entire amount to the supplier needs verification that whether at all the entire amount being paid by them was towards the invoices raised by the supplier. The High Court directed that in case the verification exercise reveals that even after due payment to the supplier, the same has not been deposited, it would be open for the competent authority to take appropriate decision.</p>