

S. N.	Section	Case Subject	Case	Held
1.	Section 67	Action initiated by State authorities under Section 67 against SEZ unit is not ultra vires to SEZ Act read with provisions of CGST/SGST Act, 2017	RHC Global Exports (P.) Ltd. v. Union of India [2023] 151 taxmann.com 134 (Gujarat)	<p>The petitioner in the instant case contended that since their business premises was situated in Special Economic Zone and as such, to be treated as foreign territory and not subjected to provisions whereby State authorities have no jurisdiction to carry out any search proceedings at the premises of the petitioners.</p> <p>High Court on perusal of Section 22 of SEZ Act read with Section 6 of the CGST Act, 2017 observed that State authorities are empowered to carry out proceedings in SEZ. Their jurisdiction was unquestionable as Central Government has already authorized officers by virtue of notification dated 5.8.2016 and by virtue of provisions of Sub-section (2) of Section 6 of GGST Act, where any proper officer issues an order under this Act, he also issues an order under CGST Act as authorized by Act or under intimation to jurisdictional officer of Central Government and respondents were thus empowered to carry out search proceedings in SEZ. Further, by virtue of circular dated 5.7.2017, functions of proper officers under CGST Act are also defined. Thus the High Court held that once Central Government has notified the functions of proper officers, said functions shall also be applicable to be carried out by the officers under CGST Act and hence it cannot be said that there was any lack of authority on the part of State Officers , as contended.</p> <p>The high court further observed that SEZ units were not exempted from any investigation or inspection and if submission of petitioners was accepted that they are SEZ units and as such not subjected to such rigors of investigation or inspection, same would defeat the very purpose of the Act and apart from this, there appears to be no visible inconsistency in both the Acts i.e. SEZ Act 2005 or GST Act, 2017.</p> <p>The High Court dismissed the petitions with costs of Rs.10,000/- (Rupees Ten Thousand only) for each petition and further observing that the writ petition were an attempt on the part of petitioners by filing these kind of petitions to thwart and belay the legal proceedings which were initiated by respondent authorities and as such this move of petitioners appeared to be an abuse of process of law looking to the manner in which the irregularities alleged to have been committed.</p>
2.	Section 79	Amount illegally debited from Bank account directed to be credited	Pradeep Kumar Siddha v. Union of India [2023] 151 taxmann.com 142 (Bombay)	In the present case, authorities had proceeded to unilaterally deduct the amount from the Petitioner's bank account by giving instructions to the Bank and transferring it to the Electronic Cash Ledger of the Petitioner. The department failed to demonstrate the legal basis for such course of action and therefore, High Court asked the Officer to file an affidavit to that effect and within how much time the amount would be credited to the account of the Petitioner.
3.	Section 129	Non-consideration of reply and no opportunity being heard given for second Notice	Shido Pharma v. Assistant Commissioner (ST) [2023] 151 taxmann.com 141 (Madras)	In the instant case, goods were detained under Section 129 and in response to the notice dated 18.03.2023, petitioner had filed a detailed reply on 24.03.2023 stating that the provisions of the IGST Act are inapplicable to the transaction in question. On the same date, department issued a revised notice, in Form GST MOV -07 proceeding to apply the applicable provisions of the CGST/SGST Act. It was thereafter observed by the High Court that no opportunity was granted to the petitioner to respond to that notice and the petitioner was further never heard as what had transpired on 24.03.2023 was a hearing only in respect of notice dated 18.03.2023 and not subsequent notice dated 24.03.2023. Therefore, the High Court held that since proceedings had been concluded contrary to the principles of natural justice, therefore impugned orders were thus set aside.
4.	Section 69 and Section 132	Denial of Bail	Kumar Rasiklal Kanudawala v. State of Gujarat [2023] 151 taxmann.com 140 (Gujarat)	In the instant case, it was contended by the department that although vehicle number was mentioned in the e-way bills, actually, as per the statement of the vehicle owners, vehicle never travelled from Gandhidham to Deesa or Patan and no goods were unloaded. Therefore, it prima facie, indicated that the e-way bills were bogus and as such there was no transaction and yet the e-way bills were generated. Therefore, the High Court considering the above fact revealed in the preliminary investigation carried out by Investigating Officer and in absence of there being any actual transaction, prima facie, it seemed that bogus e-way bills were generated. Therefore, considering the fact that the amount involved was more than 1,84,00,000/-, the court did not found it appropriate to exercise the powers under section 438 of the Criminal Procedure Code and therefore, the applications were dismissed.