

S. N.	Section	Case Subject	Case	Held
1.	Section 73 and section 75	Reasonable opportunity of being heard be given and decision to extend time be exercised with sound reasons	Exide Industries Ltd. v. Deputy Commissioner (CT) [2023] 151 taxmann.com 110 (Madras)	<p>The High Court observed that reasonable opportunity ought to be given to a person to show cause and depending upon the facts of each case, even further extension of time can be granted by the Assessing / Adjudicating Officer. In any event, the decision to refuse or extend time ought to be exercised with sound reasons and not in an arbitrary or capricious manner.</p> <p>In view of the above, the court found that impugned orders did not discuss the reasons for extension of time at all, leave alone giving its finding either granting or refusing the adjournment. In such circumstances, it was clear that there was a clear violation of the Circular No. 12/2022 Dt 26th September 2022 (TNGST) and therefore it was held that petitioner be afforded a fair opportunity to submit its explanation in respect of three pending queries within a reasonable time and thereupon, the respondent may pass fresh orders considering the entire explanation submitted by the petitioner, including the earlier explanations submitted by it., The impugned orders were set aside.</p>
2.	Section 107	Condonation beyond limitation period not allowed	[2023] 151 taxmann.com 109 (Patna) Badri Prasad Yadav v. State of Bihar	<p>The remedy of writ is an absolutely discretionary remedy. The High Court, hence, can always refuse the exercise of discretion if there is an adequate and effective remedy elsewhere. The High Court can exercise the power only if it comes to the conclusion that there has been a breach of principles of natural justice or due procedure required for the decision has not been adopted. The High Court would also interfere if it comes to a conclusion that there is infringement of fundamental rights or where there is failure of principles of natural justice or where the orders and proceeding are wholly without jurisdiction or when the vires of an Act is challenged.</p> <p>It was further observed that when there is a specific period for delay condonation provided, there cannot be any extension of the said period by the Appellate Authority or by this Court under Article 226 of the Constitution. The petitioner by his own failure had not availed the appellate remedy and in that circumstance, there can be no invocation of the extraordinary jurisdiction under Article 226 of the Constitution of India. The High Court did not find that there was a jurisdictional error, violation of principles of natural justice or abuse of process of Court averred or argued by the petitioner in the above writ petition. The petitioner sought to challenge the demand on the ground that the ITC claimed by the petitioner was proper; which was merely determination of the tax payable on the basis of the various claims validly arising from the statute and computation; which cannot be agitated in a petition under Article 226 of the Constitution of India. The gross delay stands against the petitioner and delay was not condoned.</p> <p>Cases Referred- State of H.P & Ors. v. Gujarat Ambuja Cement Limited & Anr.; [2005] 6 SCC 499</p>
3.	Section 129	No Levy of Penalty due to Expiry of way Bill provided intent to evade absent	Ramji Jaiswal v. State Tax Officer, Bureau of Investigation [2023] 151 taxmann.com 165 (Calcutta)	<p>In the instant petition, the petitioner challenged the order of adjudicating authority imposing the penalty for transporting the vehicle in question after expiry of the e-way bill which expired on 2nd August, 21 at 11.59 p.m. and vehicle in question was intercepted at 6.45 p.m. on 3rd August, 2021. There was a time gap between the expiry and interception of the vehicle in question of about 18 hrs., which was less than a day and petitioners submitted there was no intention of evasion on part of petitioners and there was a genuine problem of break down of vehicle in question.</p> <p>The High Court decided the matter in favour of the petitioner in view of the facts which appeared from record and considering the orders of the Calcutta High Court by setting aside the impugned order and as a consequence, petitioners were held to be entitled for refund of the penalty.</p> <p>Cases Referred- Ashok Kumar Sureka v. Assistant Commissioner, State Tax, Durgapur Range</p>
4.	Section 69 and Section 132	Grant of Anticipatory Bail	Kishan Murari Gupta V State of U.P [2023] 151 taxmann.com 164 (Allahabad)	<p>In the instant case, it was submitted by the petitioner that since seller firm as per allegation in the FIR had been found bogus, therefore, their firm being the purchaser firm, proceedings under section 74 of U.P. G.S.T. Act were going on and they have participated in those proceedings and against the order of the assessing authority, appeal had been filed by depositing 10% of the disputed tax amount. It was submitted that the dispute was purely civil in nature. The petitioner had no criminal antecedent.</p> <p>The High Court observed that considering the above aspects of the matter, perusal of the record, the fact that proceedings under section 74 of the U.P. G.S.T. Act were going on, as also the judgment in Sushila Aggarwal and others versus State (NCT of Delhi) and another (2020)5 SCC 1 and without entering into the merit of the case, it would be appropriate to grant protection to the applicants under Section 438 Cr.P.C.</p>