

S. N.	Section	Case Subject	Case	Held
1.	Section 5 of IGST Act, 2017	Duty Free Shops, whether in arrival/ departure terminal, being outside the customs frontiers of India cannot be saddled with any indirect tax burden	<b>Plus Max Duty Free (Madurai) (P.) Ltd. v. Principal Chief Commissioner of GST &amp; Central Excise [2023] 151 taxmann.com 194 (Madras)</b>	<p>In the instant matter it was contended that no GST is payable on the amounts paid by the petitioner as license fees under License Agreement dated 05.04.2017 for the duty-free shops.</p> <p>The High Court relied upon the judgement of Hon'ble Apex Court in Commissioner of CGST and Central Excise v. Flemingo Travel Retail Ltd. [Civil Appeal Diary No.24336/2022, dated 10.04.2022] has held that Duty Free Shops, whether in the arrival or departure terminals, being outside the customs frontiers of India, cannot be saddled with any indirect tax burden and any such levy would be unconstitutional. Therefore, if any tax is levied, the same cannot be retained and the Duty Free Shops would be entitled for refund of the same without raising any technical objection including that of limitation and thus allowed the writ petitions.</p> <p><b>Cases Referred- Commissioner of CGST and Central Excise v. Flemingo Travel Retail Ltd. [Civil Appeal Diary No.24336/2022, dated 10.04.2022],</b></p>
2.	Section 63	Order cannot be sustained as no reason assigned while passing order and no opportunity of hearing given	<b>Jogesh Kumar Dehury v. Additional CT &amp; GST Officer [2023] 151 taxmann.com 193 (Orissa)</b>	<p>In the instant case, Petitioner contended that he was never served with any notice prior to passing of the impugned order and the authority did not assign any reason and the order does not contain details of demand raised and thereby he was deprived of availing opportunity of hearing. The counsel for Revenue Department stated that on perusal of order impugned it was evident that no reason had been assigned by the authority and, as such, while passing such order no opportunity of hearing was also given. Therefore, the same cannot be sustained in the eye of law.</p> <p>In view of the above, the High Court set aside the assessment order and directed the Petitioner to appear before the Assessing Officer and furnish objection, if any.</p>
3.	Section 73 and Section 74 AND section 39	If there is an inadvertent or typographical error that has crept in GSTR-3B, the taxpayer cannot be mulcted with the tax liability in excess of what is due and payable	<b>Instakart Services (P.) Ltd. v. Sales Tax Officer [2023] 151 taxmann.com 192 (Delhi)</b>	<p>In the instant case, an error had crept in GSTR-3B filed for the month of September, 2017 wherein petitioner had erroneously typed its liability for tax as Rs. 32,33,36,855/- instead of Rs. 3,23,36,855/-. It discharged its liability by using the available balance of Input Tax Credit (ITC) of Rs. 29,10,00,000/- discharging the said liability, which the petitioner claims as an apparent error. The petitioner immediately reversed the ITC that was used for discharging the overstated liability and reported the same in its returns filed for the month of October, 2017. Thereafter, on 22.12.2017, the petitioner filed its returns (GSTR-1) for the month of September, 2017 and correctly stated the tax liability at Rs. 3,23,36,855/-instead of Rs. 32,33,36,855/- as reported earlier. Petitioner contended that the benefit of Circular No.26 dated 29.12.2017 issued for providing a mechanism for correction of mistakes in (FORM GSTR-3B) returns has not been extended on the ground that it was issued subsequently. In response to a letter communicated to the taxpayer, a personal hearing was scheduled on 20.04.2023 and the petitioner explained the reasons for reversing the excess amount of ITC. The revenue, thereafter issued a show cause notice for the mismatch in the FORM GSTR-2A and FORM GSTR-3B for a sum of Rs. 55,39,99,352/-, which comprised of the tax demand of Rs. 30,00,26,728/- and interest on the said amount quantified at Rs. 25,39,72,624/-.</p> <p>The High Court observed that if there is an inadvertent or typographical error that has crept in any returns, taxpayer cannot be mulcted with tax liability in excess of what is due and payable and the explanation provided by petitioner were not considered. The High Court thus directed the concerned authority to pass an appropriate order pursuant to the SCN considering the petitioner's responses.</p>
4.	Section 83	Provisional attachment ceases to be operative after expiry of one year from order date	<b>Balaji Enterprises v. Principal Additional Director General [2023] 151 taxmann.com 191 (Delhi)</b>	<p>The department itself fairly admitted that a period of one year had expired since the date of the impugned order and in terms of Sub-section (2) of Section 83 of the CGST Act, the provisional attachment order has ceased to be operative. Therefore, in view of this, the High Court held that the petitioner cannot be restricted to operate the bank accounts, on account of the impugned order.</p>