

S. N.	Section	Case Subject	Case	Held
1.	Section 9 of CGST Act, Section 5 IGST Act	Supply of goods by shops located at domestic Airport or Domestic Security Hold Area, is taxable	<b>A1Cuisines (P.) Ltd. V. Union of India [2023] 151 taxmann.com 189 (SC)</b>	The Bombay High Court held that supply of goods by shops located at a domestic Airport or Domestic Security Hold Area, which are before even the immigration clearance by a passenger are taxable since the transaction cannot be said to have taken place in any area beyond the customs frontiers of India or outside India.  The SLP before the Supreme Court against the said judgement was dismissed.
2.	Section 29 and Section 30	SCN set aside as the same was devoid of reasons and thus registration restored.	<b>Rishiraj Aluminium (P.) Ltd. v. Goods &amp; Service Tax Officer [2023] 151 taxmann.com 163 (Delhi)</b>	The High Court observed that SCN was deficient and it does not sufficiently disclosed reasons why petitioner's GST Registration was suspended or was proposed to be cancelled. It is well settled that a SCN must clearly set out the reasons for proposing an adverse action for noticee to respond. The High Court found merit in the petitioner's contention that he was at a loss as to how to respond to the impugned show cause notice as it did not disclose any intelligible reason for proposing cancellation of the petitioner's registration.  The High Court thus set aside the show cause notice and petitioner's GST Registration was restored.
3.	Section 54	Refund cannot be withheld merely because the revenue has decided to file an appeal against the order	<b>G. S. Industries v. Commissioner Central Goods and Services Tax [2023] 151 taxmann.com 162 (Delhi)</b>	The question was whether benefit of Order-in-appeal dated 03.01.2022 can be denied to the petitioner and refund amount be withheld solely on the ground that the respondent had decided to file an appeal against the said order.  The High Court observed that respondent had not filed any appeal, and there was no order of any Court staying the order. Indisputably, the order could not be ignored solely because according to the revenue, the said order is erroneous and is required to be set aside. The High Court thus allowed the petition and directed to forthwith process refund including interest. <b>Cases Referred- Mr. Brij Mohan Mangla v. Union of India &amp; Ors.: W.P.(C) 14234/2022 dated 23.02.2023.</b>
4.	Section 107 and Section 112	Petitioner failed to file appeal within condonable period, demand stayed subject to deposit of tax as Tribunal not constituted	<b>Laxman Barik v. Joint Commissioner of State Tax (Appeal) [2023] 151 taxmann.com 161 (Orissa)</b>	There was delay in preferring appeal before appellate authority. The revenue contended that, Court may not be able to condone the delay beyond four months, particularly when appellate authority has not been vested with discretion to condone the delay beyond one month after lapse of three months from the date of communication of order.  The High Court held that since the petitioner wants to avail the remedy under the provisions of law by approaching 2 <sup>nd</sup> appellate tribunal, which has not yet been constituted, as an interim measure subject to the Petitioner depositing entire tax demand, the rest of the demand was stayed during the pendency of the writ petition.
5.	Section 54 of CGST Act, 2017 and Section 13 of IGST Act, 2017	Market Research Services not covered by Intermediary services	<b>Ohmi Industries Asia (P.) Ltd v. Assistant Commissioner, Central Goods and Services Tax [2023] 150 taxmann.com 409 (Delhi)</b>	The petitioner provided services to an affiliated entity, OHMI Industries Ltd., Japan and entered into two separate agreements with OHMI Japan, one for rendering Business Support Services and the other for providing Market Research Services. The petitioner filed an application seeking refund of integrated tax on zero rated supply. The adjudicating authority rejected the refund application stating that petitioner was providing support to the customers of OHMI, Japan directly meant that the petitioner was rendering intermediary services. The High Court stated that the appellate authority failed to notice that the petitioner's appeal was confined only for refund of integrated tax paid on invoices raised in respect of Market Research Services. The order passed by the adjudicating authority was premised on the basis that petitioner was rendering services directly to the customers of OHMI, Japan. This was in the context of the Business Support Services rendered by the petitioner to OHMI, Japan. In the present case, there was no dispute that petitioner had rendered Market Research Services on its own; there was no allegation that it had arranged supply of services from a third party.  The High Court also referred to Circular dated 20.09.2021 (Circular No.159/15/2021-GST) and held that insofar as providing Market Research Services is concerned, the petitioner cannot be held to be an intermediary. In view of the above, the petitions were allowed and the impugned order was set aside. <b>Case Referred- M/s Ernst And Young Limited v. Additional Commissioner, CGST Appeals-II, Delhi and Anr.; W.P.(C) No.8600/2022 decided on 23.03.2023.</b>