

Part-4-One Pager Snapshot to the Latest Cases

CA Arpit Haldia

S. N.	Section	Case Subject	Case	Held	Cases Referred
1.	Section 73, Section 74, Section 75 and Section 107	-Relied upon documents to be provided, might not be asked by the Taxpayer -Report of Inspection not sufficient in absence to corroborative evidence -Section 75(4) mandatorily to be followed	Lari Almira House v. State of U.P [2023] 149 taxmann.com 476 (Allahabad)	-No error in appellate order, whereby appeal was dismissed on ground of limitation. However, Court considered validity of the order of proper officer on the limited grounds which are available for judicial review under Article 226 of the Constitution of India as the order of proper officer has not merged in the order of Appellate Authority. -Sections 61 and 67, are step towards the initiation of the proceedings either under Section 73 or Section 74 of the Act, and they do not form any basis for concluding the evasion of tax and thus irrespective of the outcome under section 61 or section 67, burden of assessing short payment of tax or wrong availment of ITC lies on the department which is to be discharged by them. -Mere report of inspection and discrepancy in the scrutiny of returns is not enough to assess and levy the tax, the said discrepancies, even if noticed by the department should be corroborated with materials in the form of either the evidence or in any other form as the department may deem fit. -Opportunity of hearing as per Section 75(4) mandatorily to be given by department. - Any document proposed to be relied upon should be provided to the assessee prior to conclusion of the proceedings although department contended that petitioner never demanded copy of relied upon documents and in any case, all important points mentioned in the report were mention in the show cause notice itself.	-M.P. Steel Corporation vs. Commissioner of Central Excise 2015(7) SCC 58
2.	Section 29 and Section 107	Revocation of Cancellation of Registration & Appeal filed beyond limitation	Redolence Tea Industries v. UOI [2023] 149 taxmann.com 475 (Gauhati)	-Appeal pending before the Appellate Authority seeking revocation of the cancellation filed beyond limitation period to be heard on merits by passing appropriate orders rather than dismissing the same on ground of limitation and requiring petitioner to approach this Court once again by filing a writ.	-CIT-12 -Vs- Pheroza Framroze and Company - (2017) 11 SCC 730
3.	Section 29 and Section 107	Revocation of Cancellation of Registration and Appeal filed beyond limitation	Jony Electricity India Engineering (P.) Ltd. v. JC GST & Central Excise, Appeals-I [2023] 149 taxmann.com 474 (Madras)	Dismissal of the appeal by appellate Authority was held to be in order for appeal filed beyond limitation period as petitioner had set out no explanation, let alone justifiable explanation, for the condonation of even the one month extension statutorily provided and thus the further delay of 6 months over and above the statutory limitation is fatal to its case.	-

