

S. N.	Section	Case Subject	Case	Held
1.	Section 108 and Section 161	Since revisional proceedings under Section 108 to consider order on merits already started therefore prayer made to direct officer to undertake rectification not to be gone into.	Lakshmi Cot-Gin (P.) Ltd. v. State of Gujarat [2023] 151 taxmann.com 218 (Gujarat)	In the instant case, order was passed under Section 74 on dated 3.3.2022. Order of provisionally attaching bank account was also passed. The petition was filed to direct the officer to pass rectification order under section 161 with reference to adjudication order dated and to set aside the order for provisional attachment alongwith refund of the amount which according to the petitioner, was recovered coercively from the bank account. By order dated 23.11.2022, the court issued notice for final disposal but in the meantime, officer initiated the revisional process under section 108(1) of the GST Act to again examine the merits of the said order. The High Court thus considering the above stated that there was no gainsaying that issue raised by the petitioner and for which the rectification had been sought for, would be under examination by the revisional authority. Thus, in view of the above, it was held that the present petition was rendered not liable to be gone into as revisional authority was in process of adjudication of disputed aspects.
2.	Section 9	Until further orders, payment of GST for grant of mining lease/royalty was stayed	Amorous Trading India (P.) Ltd. v. State of U.P [2023] 151 taxmann.com 219 (Allahabad)	The petitioner contended that royalty payment is tax and not consideration in the context of the privilege parted by the State allowing the petitioner and others to mine sand. That being the nature of the payment made by the petitioner, the same is not amenable to GST as it is not consideration either for sale of goods or service provided. The reliance was placed on a Constitution Bench decision of the Supreme Court in India Cement Ltd. and Others v. State of Tamil Nadu and Others [1990] 1 SCC 12, wherein, nature of royalty payment was considered and it was opined to be tax, and it was shown that a similar controversy is engaging the attention of the Supreme Court in M/s Lakhwinder Singh v. Union of India & Ors. in Writ Petition (Civil) No. 1076 of 2021. The High Court held that until further orders, payment of GST for grant of mining lease/royalty by the petitioner shall remain stayed.
3.	Section 10 of IGST Act, 2017	Petitioner approaching the court against issue of DRC-01A held to be pre-mature. (Levy of CGST/SGST instead of IGST on order placed by local customer but vehicle transported from Assam to Tripura)	SL Automobiles (P.) Ltd. v. State of Tripura [2023] 151 taxmann.com 220 (TRIPURA)	The petitioner was a dealer of Honda motorcars having its head office at Guwahati and a branch office at Agartala. Upon an order placed by a local customer for delivery of the car, the petitioner sent the vehicle from Guwahati to Agartala by way of a branch transfer but upon payment of full IGST. The State GST authorities, however, held the belief that not IGST but CGST and SGST were payable since this is an incident of local sale. The officer seized three motorcars which were lying in the showroom of the petitioner at Agartala and issued DRC-01A under Section 74(1) and passed an intimation/order asking the petitioner to pay a sum of Rs.1,28,37,517/- by way of unpaid CGST and SGST with interest and penalty. The orders of attachment and assessment was challenged in the petition. The Court noted that DRC-01A being issued is not a show-cause notice which petitioner had prayed to quash in the writ petition. Moreover, the proceeding was pending and without any outcome of the proceeding, the petitioner approached the court. The court felt that the writ petition filed was at a pre-mature stage, and accordingly, the same was dismissed.
4.	Section 95	A recipient of service cannot apply for Advance Ruling.	Uttar Pradesh Metro Rail Corpn. Ltd. [2023] 151 taxmann.com 224 (AAR- UTTAR PRADESH)	The applicant was a receiver of the Services and in view of point (a) provided under Section 95 of CGST Act 2017, since a supplier of the services can only file Application for Advance Ruling. Therefore, following the decision in the matter of M/s Purvanchal Vidyut Vitran Nigam Limited, authority did not admit the application for consideration/ruling on merits as applicant did not fall under the definition of Advance Ruling.
5.	Section 69 and Section 132	Grant of Bail	Vivek Mishra v. Union of India [2023] 151 taxmann.com 226 (Allahabad)	The High Court noted that it was an admitted fact that applicant was neither proprietor nor owner of the firm, whereas his mother Smt. Anusuiya Mishra was the proprietor of the firm and no charge-sheet or complaint had been filed by the Department against her. The investigation was completed and charge-sheet/complaint had already been filed and there was no chance of tampering of evidence or influence of witnesses. The High Court noted that the maximum punishment under Section 132(1)(a) of the Act, 2017 is five years which was triable by Magistrate and there was no criminal history of the applicant and applicant was having fixed place of residence and there was no chance of his absconding. Thus, considering the complicity of accused, severity of punishment as well as totality of facts and circumstances, the High Court found it a fit case for bail and thus bail application is allowed.