

S. N.	Section	Case Subject	Case	Held
1.	Section 129 and Section 130	Inter-play between Section 129 and 130 in Question	<b>Aahana Sales (P.) Ltd. v. Union of India [2023] 151 taxmann.com 230 (Gujarat)</b>	<p>Petitioner contended that when goods were in transit, the authorities intercepted the goods and confiscated them. In other words, authorities sought to derive their powers for taking possession of the goods of the petitioner which were in transit under Section 129 of the Act. It was submitted that the said Section begins with non obstante clause and it is a provision independent of Section 130. In that context, it was submitted that exercise of powers under Section 129 and thereafter switching over to Section 130 and passing order thereunder without availing the petitioner the benefits of release of the goods under Section 129, could be said to be without jurisdiction. Special Civil Application No.8353 of 2022 and other matters have been entertained by this court involving the same point and interim relief of release of the goods and conveyance has also been granted on condition.</p> <p>The High court directed that upon compliance of the required conditions stated in the order, goods and vehicle both shall be released by the authorities and the petition be listed with Special Civil Application No.8353 of 2022.</p>
2.	Section 112	Status of Recovery of demand on account of non-constitution of Tribunal.	<b>SAJ Food Products (P.) Ltd. v. State of Bihar [2023] 151 taxmann.com 229 (Patna)</b>	<p>The High Court held that subject to verification of the fact of deposit of a sum equal to 20 percent of the remaining amount of tax in dispute, or deposit of the same, if not already deposited, in addition to the amount deposited earlier under Sub-Section (6) of Section 107 of the B.G.S.T. Act, the petitioner must be extended the statutory benefit of stay under Sub-Section (9) of Section 112 of the B.G.S.T. Act, for he cannot be deprived of the benefit, due to non- constitution of the Tribunal by the respondents themselves. The recovery of balance amount, and any steps that may have been taken in this regard will thus be deemed to be stayed.</p> <p><b>Case Referred- Angel Engicon Private Limited v. the State of Bihar &amp; Anr. passed in C.W.J.C No. 1920 of 2023</b></p>
3.	Section 67	GST officers have no power to seize any cash in exercise of its powers under Section 67(2) of the GST Act	<b>Arvind Goyal CA v. Union of India [2023] 151 taxmann.com 228 (Delhi)</b>	<p>The petitioner had contended that GST officers had no power to seize any cash in exercise of its powers under Section 67(2) of the GST Act. The department contended that that the officers had merely "resumed" cash as is noted in the <i>panchnama</i> and therefore, the same cannot be considered as seizure. The High Court observed that <i>Prima facie</i>, a plain reading of Section 67(2) of the GST Act indicates that the seizure is limited to goods liable for confiscation or any documents, books or things, which may be "<i>useful for or relevant to any proceedings under this Act</i>". Clearly, cash does not fall within the definition of goods. And, <i>prima facie</i>, it is difficult to accept that cash could be termed as a 'thing' useful or relevant for proceedings under the GST Act. The second proviso to Section 67(2) of the GST Act also provides that the books or things so seized would be retained by the officer only so long as may be necessary "<i>for their examination and for any inquiry or proceedings under the Act.</i>" However, Court thereafter noted that there was no occasion for the Court to examine the aforesaid question as it was the respondents' stand that the cash was not seized.</p> <p>It was contended by the respondent that seizure memo was not prepared as the officers, who had conducted the search operation, had, in fact, not seized any cash. It was observed by the High Court that there was no provision in the GST Act that could support an action of forcibly taking over possession of currency from the premises of any person, without effecting the same. The powers of search and seizure are draconian powers and must be exercised strictly in terms of the statute and only if the necessary conditions are satisfied. Thus, it was held that the action of taking away currency was illegal and without any authority of law respondents were directed to forthwith return the balance amount along with the interest accrued thereon to the petitioners and the bank guarantee furnished by petitioner for release of currency was directed to be released forthwith.</p>
4.	Section 107	Opportunity of being heard to be given considering the reason for seeking adjournment was reasonable	<b>Swaraj Equipment (P.) Ltd. v. Commissioner (Appeals II) [2023] 151 taxmann.com 227 (Madras)</b>	<p>The only grievance put forth was that the petitioner was not heard prior to passing of the impugned order. The officer records that though personal hearing was fixed on 06.01.2023 and re-fixed on 08.02.2023, on both occasions, only adjournment was sought on the ground that additional information was to be collected. However, the assessee pointed out that marriage reception of his daughter was on 04.02.2023, on account of which, he was unable to collect the requisite particulars. The High Court was of the considered view that the aforesaid reason constitutes sufficient cause and that the officer ought to have taken note of the same and re-schedule the date of hearing to accommodate the request as aforesaid and thus the impugned order was set aside, appeal stood restored.</p>