

S. N.	Section	Case Subject	Case	Held
1.	Section 73 and Section 107	Since the petitioner had already availed alternate remedy, therefore the High Court declined to interfere	<b>Pappachan Chakkiath v. Assistant Commissioner [2023] 151 taxmann.com 275 (Kerala)</b>	It was observed by the High Court that pursuant to the permission granted by the learned single Judge, the appellant had already filed a statutory appeal. As the appellant had sought for availing the alternate remedy and had, in fact, availed it, the High Court was not inclined to admit the writ appeal and hear the contentions of the appellant on merits. The High Court further stated that the Learned Single Judge has considered the contentions and had entered findings only for the purpose of declining jurisdiction under Article 226 of the Constitution of India for entertaining the writ petition and nothing more.
2.	Section 107 and Section 112	Revenue cannot ignore the Order-in-Appeal and deny the benefits of the same on the ground that it seeks to appeal the said order	<b>Netgear Technologies India (P.) Ltd. v. Assistant Commissioner GST [2023] 151 taxmann.com 273 (Delhi)</b>	<p>The petitioner's application for refund was rejected by the officer by an Order-in-Original. The Appellate Authority allowed the appeal by an Order-in-Appeal. Notwithstanding the same, the petitioner's request for the claim was not processed. The petitioner filed another application once again claiming refund of the said amount. Thereafter, by a communication dated 10.08.2021, the petitioner was informed that the Commissioner, CGST, Delhi East Commissionerate had directed the respondent to file an appeal against the Order-in-Appeal dated 09.03.2021. The said appeal has not been preferred as yet.</p> <p>The High Court noted that the respondent had taken no steps to secure any order about the stay of the Order-in-Appeal pursuant to which the petitioner was now entitled to the claim of refund. The High Court allowed the petition and rejected the contention of the revenue that the Revenue can ignore the Order-in-Appeal and deny the benefits of the same on the ground that it seeks to appeal the said order.</p> <p><b>Cases Referred-Zones Corporate Solutions Pvt. Ltd. v. Commissioner of Central Goods &amp; Services Tax Delhi East &amp; Anr.: 2020-VIL-302-DEL:W.P.(C) 3620/2020 and Alex Tour and Travel Private Limited v. Assistant Commissioner, CGST,</b></p>
3.	Section 98	Principle of Natural Justice should have been followed and petitioner should have been informed that application could be rejected without admission	<b>KBL SPML 25JV v. Authority for Advance Ruling [2023] 151 taxmann.com 272 (Karnataka)</b>	<p>The advance ruling authority had rejected the petitioner's application as contemplated under Section 98(2) of the CGST/KGST Act recording that the petitioner, who had the benefit of contract for construction of pumping stations and reservoirs as also for Operation and Maintenance work between 01.11.2014 and 31.10.2021, had filed application for advance ruling on 07.09.2022 after the expiry of the corresponding contractual period.</p> <p>The High Court was of the considered view that opportunity of hearing as contemplated under Section 98(2) cannot be an empty formality, and the petitioner should have been informed that the application could be rejected without admission on the ground the corresponding contractual period has expired. Therefore, the High Court directed that the opportunity of hearing contemplated was rendered a mere formality by the Authority. The petitioner must therefore have appropriate liberty to file additional plea to show cause against such reasoning and the respondent must reconsider the application.</p>
4.	Section 74	Opportunity of being heard be granted to the assessee	<b>Subodh Kumar Mondal v. State of West Bengal [2023] 151 taxmann.com 271 (Calcutta)</b>	<p>Impugned orders were passed under Section 74(9) of the WBGST Act, 2017. The appellant approached the Writ Court on the ground that opportunity of personal hearing having not been granted. During the pendency of the writ petitions the entire amount, which was demanded had been fully recovered except penalty and interest. It was contended by the revenue that notice was issued fixing the hearing date, but appellant failed to appear on the said date and also did not appear on the adjourned date. The petitioner contended that in the SCN dt 28<sup>th</sup> Sep, 2022 in the column regarding details of personal hearing, it was mentioned as "not applicable".</p> <p>The High Court that since by way of third party garnishee order, since entire tax demanded from the appellant have been recovered, therefore, revenue would not be prejudiced if a fresh opportunity of personal hearing is granted to the appellant to put forth his submissions. Further, in the light of the fact that the entire tax demanded in the three orders has been recovered, the respondent authorities are directed to de-freeze the bank account of the appellant.</p>