

Part-44-One Pager Snapshot to the Latest Cases

CA Arpit Haldia

S. N.	Section	Case Subject	Case	Held	Cases Referred
1.	Section 107	Condonation of Limitation period in case of rejection of appeal filed against cancellation of registration	Gautam Kar v. Union of India [2023] 151 taxmann.com 281 (Gauhati)	<p>The petitioner stated that Order of cancellation of GST registration was passed without any notice to the petitioner. An appeal filed before the Appellate Authority was also dismissed on the ground of limitation.</p> <p>The High Court observed that purpose of limitation being prescribed in a statute is two fold, namely, to ensure compliance of the statutory provisions by the persons on whom the provisions of the statute are applicable and further to ensure that no third party rights which may have been created in the meantime are permitted to be non suited/unsettled. It would be in the interest of the revenue to permit the revocation of a cancellation of GST registration of an assessee like the petitioner so that it facilitates collection of revenue as mandated under the GST Regime. It was further stated that a writ Court is empowered to condone the delay of any statutory or quasi judicial authority. Accordingly, the Court stated that appeal before the Appellate Authority be re-heard on merits by passing appropriate orders regarding the revocation of cancellation of GST.</p>	Commissioner of Income Tax-12 v. Pheroza Framroze and Company - (2017) 11 SCC 730]
2.	Section 107	Calculation of Time limit for filing of Appeal as four months are not always 120 days	Shri Ram Ply Product v. Additional Commissioner Grade 2 Appeal State Tax [2023] 151 taxmann.com 282 (Allahabad)	<p>The appeal instituted by the petitioner was dismissed on the ground that it was beyond maximum period, as prescribed under the statute i.e. four months. The appellate authority computed four months as each month would be of 30 days.</p> <p>The High Court stated that provisions of Section 107 of the Act, 2017 reflects that it is not 120 days, but it is four months. The four months may be of 121 days or 122 days, as the case may be. In the present case, in four months, around 121 days come, and the appeal was filed on 121st day. The appellate authority should have entered into the merit of the application whether it disclosed sufficient cause for not filing the appeal within the period of three months instead of entering into merit of the application to find out whether the appellant, petitioner herein had sufficient cause which preventing him from presenting the appeal within a period of three months, the appeal has been summarily dismissed only on the ground that it was beyond 120 days, and not within 120 days.</p>	-
3.	Section 107	Alternative Remedy	T.V.H.Express v. State Tax Officer [2023] 151 taxmann.com 283 (Madras)	<p>The high Court observed that, as against the impugned order, there was an appeal remedy available before the appropriate authority. It was clear from the records that the petitioner had still not filed any appeal as against the impugned order. Therefore, High Court, without going into the merits and factual aspects of the matter, directed the petitioner to file appeal against the impugned order, dated 17.03.2022.</p>	-
4.	Section 69 and Section 132	Grant of Bail	Mohd. Rashid Siddiqui v. State of U.P. [2023] 151 taxmann.com 284 (Allahabad)	<p>The applicant for the bail was a young lawyer associated with the informant of the present case, who was also a practising lawyer, sent the eight firms to the applicant for providing legal aid and G.S.T. Thereafter, on his advice, services of one Sanjay Yadav was taken, who misused the user I.D. and password of the applicant and raised fabricated input tax credit. Learned counsel for the applicant further submitted that detail investigation was conducted by the Investigating Officer, but the only evidence found was of payment of Rs.1,12,000/- in the account of wife of the applicant by co-accused Sanjay Yadav.</p> <p>The High Court stated that considering the rival submissions of learned counsel for applicant, learned A.A.G, learned counsel for the complainant and going through the material available on record, contents of F.I.R., other relevant documents, gravity of offence as well as facts and circumstances of the case, it was evident that during the course of investigation Rs.1.12 lakh was found in the account of wife of the applicant by the main accused, Sanjay Yadav. It was also evident that said Sanjay Yadav, had already been enlarged on bail. In such circumstances, applicant was entitled to be released on bail.</p>	-