

Part-47-One Pager Snapshot to the Latest Cases

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S. N.	Section	Case Subject	Case	Held
1.	Section 54	Extension of Time Limit for filing of refund application	Geeta Enterprises v. Union of India [2023] 152 taxmann.com 27 (Delhi)	<p>The order-in-original dated 11.05.2021 rejected the petitioner's claim for refund of ITC for the month of April, 2018 as time barred. The order-in-appeal rejected petitioner's appeal. The petitioner contended that vide notification dated 05.07.2022 (Notification No.13/2022 - Central Tax) period of limitation for filing an application for refund under Sections 54 and 55 of the CGST Act has been relaxed.</p> <p>The High Court set aside the impugned orders and the petitioner's application were restored for deciding the same on merits.</p>
2.	Section 16	Recipient cannot be held liable for incorrect filing of GSTR-1 by the supplier and supplier directed to refund the amount of demand recipient had to pay for incorrect filing of GSTR-1 by supplier as the said amount not reflected in GSTR-2A of Recipient	Agrawal & Brothers v. Union of India [2023] 152 taxmann.com 111 (Madhya Pradesh)	<p>The instant writ petition was filed by M/s Agarwal and Brothers against the Railways for incorrect reporting of Transaction in GSTR-1 and due to which they had to pay a demand of Rs 13,38,544/- to GST Department as the said amount of ITC was not reflected in GSTR-2A.</p> <p>The petitioner purchased for a total consideration of Rs.51,97,142/- including the GST of Rs.9,35,486/-. The petitioner thereafter came to know that Railways had committed default in reporting the entries by not reporting the auction sales invoice duly paid by the petitioner in GSTR-1 due to which the auction sale invoice was not reflected in the petitioner's GSTR-2A. GST Department issued a demand notice dated 05.02.2020 to the petitioner demanding input tax wrongly availed with interest. In order to avoid the cancellation of GSTIN due to non-payment of the GST charges, the petitioner agreed to repay the requisite GST charges on aforesaid entries for the year 2017-18 under protest. Final order was passed by the Officer confirming demand of ITC amounting to Rs.9,34,096/- together with interest of Rs.4,04,451/-</p> <p>The High Court stated that there is no recovery of GST against the petitioner since the amount has already been deposited. However, it is a settled law that no one cannot be made to suffer for the fault of another. Since this deposit of GST was not reflected in GSTR-2A of the petitioner due to fault of Railways, therefore, petitioner had to pay the GST to the department with interest again in order to avoid the cancellation of GSTIN, therefore, he is entitled to seek the return of Rs.13,38,544/- from Railways.</p> <p>The Writ Petition was allowed and Railways was directed to return the amount of Rs.13,38,544/- to the petitioner and Railways was stated to be at liberty to submit a claim before the GST department as the same has been paid by the petitioner and if such claim is submitted, the competent authority GST Department shall decide the same in accordance with the law. The Writ Petition was allowed with a cost of Rs. 10,000/- in favour of the petitioner payable by Railways.</p>
3.	Section 83	Order of Provisional Attachment cannot be in force for a period of more than one year	Sri Om Traders v. Principal Additional Director General of GST Intelligence Officer DGCI [2023] 152 taxmann.com 115 (Karnataka)	<p>The High Court stated that in the present case, the period of one year from the passing of the provisional orders of attachment has expired as evident from the details furnished and the provisional orders of attachment automatically by operation of law have been ceased to be in operation. Accordingly, the impugned orders of attachment were declared to be no longer in operation from the expiry of the period of one year as stipulated under Section 83(2) of the Act.</p>
4.	Section 107	Additional condition for payment for stay of demand cannot be imposed when Appeal has already been filed with 10% Pre-Deposit	Liakhat Ali Mallick v. State of West Bengal [2023] 152 taxmann.com 114 (Calcutta)	<p>The appellant had earlier challenged notice dated 13th February, 2023 on the ground that the appellant has paid the entire tax as demanded and has also preferred an appeal before the appellate authority and before the expiry of the period for filing the appeal, the garnishee notice was issued. The learned Single Bench thereafter granted stay of the garnishee notice but imposed a condition that the appellant had to deposit 20% of the interest liability. The decision was challenged.</p> <p>The High Court reversing the decision of Single Bench held that considering that the statutory requirement mandates payment of only 10% of the disputed tax, therefore a condition need not be imposed by directing the appellant/petitioner to pay 20% of the interest.</p>