

S. N.	Section	Case Subject	Case	Held
1.	Section 29 and Section 30	Opportunity of being heard to be given before cancellation of registration	VIP Chem Traders v. Union of India [2023] 152 taxmann.com 159 (Gujarat)	<p>The petitioner received notice dated 06.12.2022 inter alia stating that registration of the petitioner was liable to be cancelled due to "returns furnished by you under section 39 of the Central Goods and Services Tax Act, 2017". The petitioner was called upon to file reply within 30 days.</p> <p>High Court set aside the order by stating that there is no gainsaying that the notice since was issued for cancelling the GST registration of the petitioner, if the final order against the petitioner was to be adverse, it will operate to the detriment and prejudice to the petitioner. Therefore, the process of adjudication post issuance of show-cause notice would necessitate observance of natural justice and providing reasonable opportunity to the petitioner to defend his case and submit appropriate facts and details in relation to the show-cause notice.</p>
2.	Section 73 and Section 74	Ex-Parte Assessment order set aside as the petitioner had valid ground for seeking adjournment	EPMS Property Services (P.) Ltd. v. State Tax Officer [2023] 152 taxmann.com 171 (Madras)	<p>Notices were issued on 26.08.2019 calling for various particulars for finalizing the assessments. Petitioner could not attend the personal hearing as its authorised representative was ill. Hence, the orders of assessment came to be passed, without further reference to the petitioner. The petitioner filed statutory appeals challenging the assessments. The appeals were filed on 20.02.2020. Inter alia, the appeal memorandum contained an error, in that, the date of receipt of the order was stated as '21.10.2019' instead of 29.09.2019.</p> <p>The High Court held that orders of assessment suffer from violation of principles of natural justice and the exchange of correspondence between the parties establishes that the petitioner was cooperating with the proceedings for assessment. This, and the request contained in letter dated 10.09.2019, lead to the conclusion that orders were set aside and the petitioner should be afforded an effective opportunity of hearing and has been denied the same prior to passing of the orders impugned.</p>
3.	Section 74 and Section 75	Opportunity of being heard to be provided in pursuance of provision of Section 75(4)	Sri Krishna Timbers v. State Tax Officer [2023] 152 taxmann.com 173 (Madras)	<p>The petitioner had filed replies on dated 17.12.2020 against the SCN and in conclusion they requested for a personal hearing prior to finalization of the proceedings. This request was totally ignored by the assessing officer who has instead proceeded to pass the impugned order without hearing the petitioner. The High Court observed that impugned orders were passed under the provisions of Section 74 of the Act and the officer is, in passing the orders, bound by the general provisions relating to determination of tax as set out under Section 75 of the Act.</p> <p>The High Court set aside the impugned orders of assessment and the assessment to be carried out after providing an opportunity of hearing.</p>
4.	Section 67	Onus is on the Revenue to prove that the amount collected voluntarily during search was not in violation of Article 265 of Constitution of India	William E Connor Associates & Sourcing (P.) Ltd. v. Union of India [2023] 152 taxmann.com 174 (Punjab & Haryana)	<p>The petitioner contended that a search was conducted on 23.12.2020 and 24.12.2020. In the said search, the petitioners were made to deposit an amount of Rs.83,89,196/- on 06.01.2021, under protest and on the assurance that it would be reverted in the input tax credit of the petitioner-company. The petitioners then requested the respondents to reinstate the aforementioned amount in their Input Tax Ledger by sending a letter. But the request of the petitioners was not considered even though a period of two years had lapsed. The petitioners alleged that no proceedings under Section 74(1) of the CGST Act had been initiated by the revenue, but still the input tax credit was not reverted in their ledger.</p> <p>The High Court held that any amount deposited voluntarily by the petitioner during search would not amount to collection of tax under Article 265 of the Constitution and an amount collected without authority of law, would not amount to collection of tax and the same would amount to depriving a person of his property without any authority of law and would infringe his rights under Article 300A of the Constitution of India as well. Since, the respondents failed to place any material on record to show that they got deposited amount of Rs.83,89,196/- from the petitioners with any authority of law, therefore, the petition as allowed and a direction was given to the respondents to refund the amount of Rs.83,89,196/- along with the interest @ 6% from the date of filing of the petition.</p> <p>Cases Referred- Diwakar Enterprises Pvt Ltd. v. Commissioner of CGST and Anr. CWP No.23788 of 2021 decided on 14.03.2023, Modern Insecticides Ltd and Anr. v. Commissioner, CGST and Anr. CWP No.8035 of 2021 decided on 19.04.2023, Vallabh Textiles v. Senior Intelligence Officer and others, 2022 SCC Online Del 4508, Union of India and others v. Bundl Technologies Pvt Ltd and others, ILR 2022 Karnataka 3077.</p>