

S. N.	Section	Case Subject	Case	Held
1.	Section 107	Condonation of appeal filed beyond the time period	<b>Penuel Nexus (P.) Ltd. v. Additional Commissioner, Headquarters (Appeals) [2023]152 taxmann.com 208 (Kerala)</b>	<p>The matter was related to cancellation of registration and the issue before the High court was about condonation of time period for filing an appeal be filed beyond the time period prescribed under Section 107 (4) of CGST Act, 2017.</p> <p>The High Court while dismissing the petition by holding it time barred held that CGST Act is a special statute and a self-contained code by itself. It is trite, that the Limitation Act will apply only if it is extended to the special statute. It is also rudimentary that the provisions of a fiscal statute have to be strictly construed and interpreted</p>
2.	Section 78 and Section 107	Recovery of the demand after expiry of the Normal period for filing of Appeal but before extended period for which condonation is allowed	<b>Stallion Energy (P.) Ltd. v. Union of India [2023] 152 taxmann.com 211 (Gujarat)</b>	<p>The adjudication order came to be passed on 02.03.2022 and petitioner was directed to make the payment of total amount of Rs.56,14,388/- . Thereafter order of provisional attachment of property under Section 83 came to be passed on 16.06.2022 and out of the total amount of Rs.56,14,388, Rs.46 lakhs came to be withdrawn by the respondents from the bank account of petitioner maintained with HDFC Bank. The petitioner preferred an appeal on 04.07.2022 under Section 107 of the Act before the Appellate Authority and as there was delay in preferring the said appeal and therefore petitioner had filed separate application for condonation of delay. It was also stated that as per the provisions contained in Section 107 of the Act, the petitioner was required to pre-deposit 10% of the amount of tax before the Appellate Authority but the respondents had already withdrew an amount of Rs.46 lakh from the account of the petitioner maintained with HDFC Bank. The petitioner, therefore, urged that respondents be directed to refund the remaining amount i.e. Rs.42,44,664/-.</p> <p>The High Court while observing that <b>the condonation application is till pending held that the contention of the petitioner was misconceived in view of the provisions contained in Section 73(9) read with Sections 78 and 107 of the Act and If appeal filed by the petitioner is allowed by the Appellate Authority, it is always open for the petitioner to make such request before the Appellate Authority that direction be issued to the respondents to refund the amount.</b></p>
3.	Section 129	Levy of Penalty dropped for failure to extend validity of Eway Bill	<b>Pushpa Devi Jain v. Assistant Commissioner of Revenue [2023] 152 taxmann.com 239 (Calcutta)</b>	<p>The goods were detained as e-way bill had expired at 11:59 hours on 22nd April, 2022 and it had to be revalidated by 8 a.m. on 23<sup>rd</sup> April, 2022. However, said date was a Saturday and the vehicle was intercepted at 8.52 a.m. There was no other allegation against the petitioner.</p> <p>The High Court considered the peculiar facts of the case and observed that there was no lack of bona fide on the part of the appellant to state that there was wilful misconduct committed by the appellant while transporting the goods. <b>There was every possibility that even if an application was made for extension of the e-way bill within the time permitted, 23<sup>rd</sup> April, 2022 being a Saturday, the e-way bill, in all probabilities, would not have been revalidated within the eight hours period.</b> Therefore, the appeal was allowed and the order was set aside by holding that considering the facts and circumstances of the case, the authority could not have imposed penalty on the appellant</p>
4.	Section 73	No Date, Time and Venue of personal hearing mentioned and for columns 3,4&5 of Date, Time & Venue, NA being mentioned in SCN	<b>Agarwal Wheels (P.) Ltd. v. State of Madhya Pradesh [2023] 152 taxmann.com 243 (Madhya Pradesh)</b>	<p>SCN was issued making mention about personal hearing to the effect that "you may appear before the undersigned for personal hearing either in person or through authorized representative for representing your case on the date, time and venue, if mentioned in table below", but no date, time and venue for personal hearing was shown in the notice.</p> <p>The High Court observed that SCN issued itself shows that before passing final order dated 24.08.2022, <b>the intention of the respondents was to give personal hearing to the petitioner, but in the table given, captioned as "Details of personal hearing etc.", no Date, Time and Venue of personal hearing was shown and in front of columns 3,4&amp;5 of Date, Time and Venue, NA was mentioned, which is sufficient to infer that no personal hearing was given to the petitioner before passing the impugned order dated 24.08.2022.</b> The impugned order was held to be non-sustainable and was quashed and the matter was remitted back for passing order afresh.</p> <p><b>Case Referred-</b> Bharat Mint &amp; Allied Chemicals v. Commissioner of Commercial Tax, 2022 (59) G.S.T.L. 394 (All.).</p>