

S. N.	Section	Case Subject	Case	Held
1.	Section 54	Rejection of refund on account of availment of Higher Drawback	Sunlight Cable Industries v. Commissioner of Customs [2023] 152 taxmann.com 247 (Bombay)	<p>The Petitioner had availed drawback wherein both higher and lower draw back rates were same and department rejected the refund for the month of August 2017 stating that Petitioner had availed a higher duty drawback on its exports under the Export Invoice and corresponding Shipping Bill.</p> <p>The High Court observed that rationale for not allowing the refund of IGST for those exporters, who claimed higher duty drawback was that the higher duty drawback reflects the elements of Customs, Central Excise and Service Tax taken together and since higher duty drawback was already being availed than granting the IGST refund would amount to double benefit as the Central Excise and Service Tax had been subsumed in the GST. Thus, drawback rates being the same, it represented only the Customs elements, which did not get subsumed in the GST and thus, the writ-applicant could be said to have availed double benefit i.e. of the IGST refund and higher duty drawback.</p> <p>Cases Referred- Amit Cotton Industries v. Principal Commissioner of Customs 2019 (29) G.S.T.L. 200 (Guj.), Gujarat Nippon International Pvt. Ltd. v. Union of India 2022 (64) G.S.T.L. 45 (Bom.), Kishan Lal Kuria Mal International v. Union of India [2023] 95 GST 177 (Delhi)</p>
2.	Section 73	Opportunity of being heard is different from opportunity of furnishing the Reply	Preca Solutions India (P.) Ltd. v. Assistant Commissioner [2023] 152 taxmann.com 269 (Andhra Pradesh)	<p>The petitioner had sought an opportunity of being heard personally but the order was passed without giving any such hearing. It was contended by the department that a show-cause notice was issued and the petitioner had submitted an explanation in response to the same therefore, it cannot be construed by any stretch of imagination that the impugned order was in violation of principles of natural justice and in contravention of the mandatory requirements of law.</p> <p>The High Court observed that petition disclosed in unequivocal terms that the petitioner made a request to the respondents to afford an opportunity of personal hearing. Therefore, it was held that impugned order passed was not only in violation of mandatory provisions under sub-section (4) of Section 75 of the Act, 2017, but also in violation of the principles of natural justice. Therefore, the impugned order was liable to be set aside.</p>
3.	Section 83	Cash Credit account cannot be provisionally attached	J.L. Enterprises v. Assistant Commissioner [2023] 152 taxmann.com 278 (Calcutta)	<p>The petitioner had contended that the cash credit account of the petitioner was provisionally attached by the officer. This present appeal was an intra-Court appeal directed against the order dated 25.05.2023 passed in WPA 12132 of 2023. By the said order the writ petition was disposed of by relegating the appellant to resort to the remedy provided under Section 159(5) of Central Goods and Services Tax Rules 2017 (for short "the Rules").</p> <p>The High Court observed that it goes without saying that the Court has accepted the legal position which has been settled by various decisions which have been referred to in the impugned order. If such be the case, no useful purpose will be served by relegating the petitioner to avail the remedy under sub-Section 5 of Section 159 of the Rules. Therefore, the writ Court ought to have allowed the writ petition in its entirety instead of relegating the appellant to a remedy which is inapplicable to the cases where there is an order of provision attachment of a cash credit account. Therefore, the appeal was allowed and the order passed by the learned writ Court was set aside insofar as it directed the appellant to avail the remedy under Sub-Section 5 of Section 159 of the Rules and in other respect where the learned writ Court had rightly accepted the legal position stood confirmed.</p>
4.	Section 129	Non-Extension of Eway bill being day of expiry being Saturday.	Sunil Yadav v. Assistant Commissioner [2023] 152 taxmann.com 270 (Calcutta)	<p>The petitioner's vehicle, bearing registration number WB33C6286 which was carrying goods covered by e-way bills was intercepted on 4th February, 2023. The petitioner also said that under the applicable rules, the petitioner was entitled to revalidate the e-way bill within 8 hours from the time it lapsed and as such the time of interception was within the period. The petitioner contended that 4th February, 2023, being Saturday and the petitioner even if had made an application for revalidation of e-way bill, the same in all likelihood would not have been revalidated on the same date, being Saturday.</p> <p>The High Court relied upon the judgement in the matter of <i>Pushpa Devi Jain v. Assistant Commissioner of Revenue, Bureau of Investigation, North Bengal Headquarters & Ors.</i> and set aside the detention order.</p>

