

**Part-58-One Pager Snapshot to the Latest Cases**

**CA Arpit Haldia**

| S. N. | Section            | Case Subject   | Case   | Held   |
|-------|--------------------|--|--|--|
| 1.    | <b>Section 107</b> | Ex-Parte Order set aside as notice not served  | <b>Mahalaxmi v. Joint Commissioner of Goods &amp; Service Tax [2023] 153 taxmann.com 250 (Karnataka)</b>     | <p>The High Court observed that after receipt of the notice in the appeal proceedings, the appellant and his authorized representative had appeared before the appellate authority and had sought adjournment, the appellate authority did not give the next date of hearing, but further notice was issued to the appellant and the authorized representative. It is the case of the petitioner that such further notice issued to the petitioner were not served upon them.</p> <p><b>The High Court thus set aside, the impugned order on the short ground that the same is passed in violation of principles of natural justice.</b></p>   |
| 2.    | <b>Section 107</b> | Condonation of delay in filing of Appeal for Revocation of Cancelled Registration  | <b>Jaipur Textiles v. Appellate Authority/ Joint Commissioner of GST [2023] 153 taxmann.com 248 (Madras)</b> | <p>GST registration of the petitioner was cancelled on 2-1-2023. However, appeal filed by the petitioner before Appellate Authority was beyond the condonable period of 30 days. Appellate Commissioner thus rejected the appeal.</p> <p><b>The High Court observed that no useful purpose will be served by keeping the assessee outside the purview of the GST regime without reviving their GST registration, as the assessee will continue to carry on business. By not revoking the cancellation of the GST registration, the Government will lose the revenue.</b> Therefore, considering the above, Court condoned the delay in filing of appeal.</p> <p>Case Referred- <b>Suguna Cutpiece Centre v. The Appellate Joint Commissioner of GST (ST) (GST)</b></p>   |
| 3.    | <b>Section 107</b> | Condonation of delay in filing Appeal beyond stipulated period   | <b>Nalla Mohammed Hameedabanu v. Appellate Deputy Commissioner (ST) [2023] 153 taxmann.com 247 (Madras)</b>  | <p>The petitioner was required to file an appeal by 26-5-2023. The last date for filing an application to condone the delay would have expired on 26-6-2023. However, the petitioner filed an appeal belatedly on 3-7-2023 in the portal.</p> <p>The High Court observed that the petitioner appeared to be a small-time trader. The Officers acting under the provisions of the GST Acts cannot entertain appeal beyond the period of limitation and therefore, they rightly rejected the appeal. <b>However, since petitioner was a small-time trader, who wished to challenge the assessment order, High Court allowed thus allowed petition by directing to admit the appeal subject to the petitioner depositing a sum of Rs. 50,000/- over and above, the amount already deposited by the petitioner towards pre-deposit.</b></p>  |
| 4.    | <b>Section 161</b> | Opportunity to appear before Assessing Officer granted subject to Petitioner depositing cost of non-appearance Rs 100000/- for each of the 3 years | <b>Vadivel Pyro Works v. State Tax Officer (ST) (FAC) [2023] 153 taxmann.com 246 (Madras)</b>                | <p>The petitioner already had been granted three opportunities, as per Section 73, therefore, respondent did not consider the adjournment letter and proceeded to pass the assessment order. The petitioner also had filed a rectification petition under section 161 along with all the records. The petitioner relied on the proviso to section 161 and submitted that before passing any orders opportunity should be granted to the assessee.</p> <p>The High Court observed that even though the officer was not empowered to grant further adjournment, he ought to have recorded the adjournment letter submitted by the petitioner, reject the same and thereafter ought to have passed an order. Even though the respondents had no power to grant adjournment, the court had the power to direct the respondents to grant one more opportunity by taking into the fact of voluminous transaction. Therefore, the court was of the considered opinion that the petitioner was entitled to one more opportunity. The High Court also observed that filing application under Section 161 with all records, also indicated that the petitioner was <i>bonafide</i> in seeking time to furnish all the records and thus the Court was of the considered opinion that the petitioner was entitled to one more opportunity. The High Court observed that while passing the rectification order, the respondent has not followed the proviso stated under section 161. Therefore, Court was of the considered opinion that before passing the order, respondent should have granted personal hearing to the petitioner. Therefore, while passing rectification order there is violation of principles of natural justice. <b>Thus, the impugned orders were set aside but since the tax liability is huge, the State cannot be made to suffer by the attitude of the petitioner as well, therefore, in the interest of justice, the petitioner was directed to pay Rs. 1,00,000/- (Rupees One Lakh only) for each year. On such deposit, the respondent was required to re-do the assessment.</b></p> <p>Case Referred- <b>Pinstar Automotive India Private Limited v. Additional Commissioner, in W.P.No.8493 of 2023, dated 20-3-2023, reported in 2023(3) TMI 1168,</b></p> |