

**Part-65-One Pager Snapshot to the Latest Cases**

**CA Arpit Haldia**

S.N.	Section	Case Subject	Case	Held
1.	<b>Section 112</b>	Mere intention to file an appeal is not a ground for not complying with the appellate authority order.	<b>Shine Jewellery v. Enforcement officer, SGST [2023] 153 taxmann.com 414 (Kerala) (8-8-2023)</b>	The respondents have seized the gold ornaments belonging to the petitioner and passed Ext P1 order on 6-9-2021 under section 129 read with Section 130 of the CGST Act. An appeal filed before the Joint Commissioner Appeals was partially decided in favour of the Taxpayer. Taxpayer approached the High Court that the revenue till date has not complied with the Appellate Order. <b>The High Court allowed the petitioner filed by the taxpayer by observing that Section 112 of the CGST Act provides that any person aggrieved by an order passed under section 107 or Section 108 of the Act has a remedy to file an appeal before the Appellate Tribunal. It may be true that the Appellate Tribunal has not been constituted till date but, the fact remains that order was passed on 10-1-2023 and the department have not worked out their alternative remedies till date. The request of the petitioner was held to be reasonable and just.</b>
2.	<b>Section 6</b>	Notices issued against supplier to petitioner and against petitioner are separate proceedings	<b>Fondement Bitumenous Industries (P.) Ltd. v. State of Bihar [2023] 153 taxmann.com 452 (Patna) (11-04-2023)</b>	The petitioner contended that he was issued with summons by the Central Tax Officer, pursuant to which the petitioner filed the required documents. State Tax Authority, by notices dated 22.08.2022 and 18.08.2022, initiated proceedings on the very same transaction. <b>The High Court observed that although there is no prohibition in the State Tax Authority initiating an action where the Central Tax Authority is seized of the matter but, however, on the very same transaction, obviously, only one assessment can be made and it is proper that the authority, who initiated the action first, continues with it and the other authority restrains itself from so proceeding.</b> The action initiated by the central authority was against the supplier to the petitioner whereas notice was issued to the assessee by the State Tax Authority as the petitioner was one such dealer, who had allegedly purchased material from the said bogus firm. <b>The investigation, as initiated against the supplier of the petitioner, cannot have any bearing on the action taken by the State Tax Authority against the petitioner for the relevant periods, being distinct from each other and against two separate assessee.</b>
3.	<b>Section 73</b>	SCN along with the report satisfies the condition of not being vague and petition dismissed	<b>Geeta Ganesh Promoters (P.) Ltd. v. Union of India [2023] 153 taxmann.com 450 (Calcutta) (11-08-2023)</b>	Petitioner contended that show cause notice is devoid of any reason, it is not specific, it is vague, it is not signed and does not contain the requisite details and it can never be regarded as a valid show cause notice in the eye of law. The department contended that SCN had been issued under section 73. In the said show cause notice, the demand details were mentioned and the name of the Deputy Commissioner, who issued the show cause notice has also been furnished. SCN was in statutory format, which was forwarded to the registered e-mail I.D of the appellant/assessee along with the statutory form viz. GST DRC-01, which is the summary of the show cause notice. Along with the SCN, a report in the matter of the appellant dated 8th May, 2023 was appended. <b>The High Court on a perusal of the report, observed that it explicitly stated that appellant is required to show cause as to why it should not pay the amount specified in the table in the said report along with the interest payable and penalty leviable thereon.</b> Therefore, the assessee should treat the annexure to the notice i.e. the report dated 8th May, 2023 as the material based on which they are called upon to show cause as to why the tax, which has been computed should not be recovered along with the interest and penalty.
4.	<b>Section 169</b>	What should be mode of communication & whether service by portal is valid service as per Section 169	<b>[2023] 153 taxmann.com 447 (Allahabad) Virender Kumar Projects (P.) Ltd. v. State of U.P. (09-08-2023)</b>	Petition was filed challenging the order dated 31.05.2023, by which the appeal of the petitioner had been dismissed on the ground of limitation by taking the date of order under challenge as the date of communication. It was contended that statute nowhere provides that the order made available on the common portal is deemed to be served and clauses (c) & (d) of sub-section (1) of section 169 of the GST Act are not covered by sub-section (2) of section 169 of the GST Act. Therefore, appeal preferred on 13/14.04.2023 was within limitation as the date of communication of the order was 22.03.2023, when the petitioner for the first time became aware of the order dated 03.12.2021, but appeal was dismissed as barred by time. <b>The High Court stated that matter requires consideration required that the State shall specifically averred as to how and under what manner, the deeming service as per clauses (c) &amp; (d) of sub-section (1) of section 169 can be said to be deemed service as per sub-section (2) of section 169 of the GST Act.</b>
5.	<b>Section 107</b>	Approaching Appellate Authority beyond Limitation	<b>Vishwanath Traders v. UOI [2023] 153 taxmann.com 427 (SC) (4-8-2023)</b>	Having regard to sub-section (4) of Section 107 of the Bihar Goods and Service Tax Act, 2017, there was a delay in approaching the appellate authority therefore, the High Court was justified in dismissing the writ petition. In the circumstances, the Special Leave Petition was dismissed. Affirmed- <b>Vishwanath Traders v. Union of India [2023] 153 taxmann.com 426 (Patna)</b>