

Part-7-One Pager Snapshot to the Latest Cases

CA Arpit Haldia

S. N.	Section	Case Subject	Case	Held	Cases Referred
1.	Section 112	Status of Recovery of demand on account of non-constitution of Tribunal.	Shapoorji Pallonji and Co. (P.) Ltd. v. State of Bihar [2023] 150 taxmann.com 33 (Patna)	The High Court held that subject to verification of the fact of deposit of a sum equal to 20 percent of the remaining amount of tax in dispute, or deposit of the same, if not already deposited, in addition to the amount deposited earlier under Sub-Section (6) of Section 107 of the B.G.S.T. Act, the petitioner must be extended the statutory benefit of stay under Sub-Section (9) of Section 112 of the B.G.S.T. Act, for he cannot be deprived of the benefit, due to non- constitution of the Tribunal by the respondents themselves. The recovery of balance amount, and any steps that may have been taken in this regard will thus be deemed to be stayed.	-Angel Engicon Private Limited vs. the State of Bihar & Anr.
2.	Section 7 and Schedule III	Taxability of Lease of commercial units on payment of one time lease premium and annual premium	Kedaram Trade Centre [2023] 150 taxmann.com 34 (AAR - GUJARAT)	-Lease of plot for 90 years by the applicant is not "sale of land" but is a lease and therefore, does not fall within the ambit of clause 5 of Schedule III of CGST Act, 2017. -Lease of commercial units on payment of one time lease premium and annual premium is a 'supply' falling within the ambit of section 7(1) of CGST Act,2017, read with clause 2 of Schedule II of CGST Act, 2017, which specifies that lease of a land or building as a supply. - The supply of the applicant is classified under sAC 9972 and would be leviable to tax at the rate of 18%o (i.e. 9% GGST and 9% SGST) in terms of notification No. 1 I 0 I 7-CT(Rate) dated 28.6.2017.	Builders Association of Navi Mumbai [Writ Petition No. 12194 of 20171
3.	Section 69 and Section 132	Release on Regular Bail	Vijay Garg v. State of Haryana [2023] 150 taxmann.com 35 (Punjab & Haryana)	The High Court considered the case to be a fit one in which the petitioner be directed to be released on regular bail as primarily- -Evidence collected by the State against the petitioner were documentary; -Investigation in this case was complete; -It was not the case of the State that during the course of investigation the petitioner did not cooperate; -Petitioner had already undergone actual custody of nearly 01 year and 05 months; even if convicted, the maximum sentence which can be imposed on him is 05 years; -Most of the material witnesses for the prosecution, at the pre-charge stage, stand examined; the proceedings that the petitioner faces are presently at the pre-charge stage in which 37 prosecution witnesses still remain to be examined and that in case the petitioner is even put to trial, the same is likely to take a long time to conclude.	-