

**Part-72-One Pager Snapshot to the Latest Cases**

**CA Arpit Haldia**

<b>S.N.</b>	<b>Section</b>	<b>Case Subject</b>	<b>Case</b>	<b>Held</b>
1.	Section 56	Provisions of Section 56 mandatory in nature and entitles assessee to get interest on delayed refund.	<b>Panji Engineering (P.) Ltd. v. Union of India [2023] 153 taxmann.com 727 (Gujarat)</b>	<p>Petitioner was informed by the authorized person of the Custom Department that 'Red Flag<sup>5</sup>' was tagged against the name of the petitioner and therefore refund and duty drawback was not issued. The refunds were subsequently received. The petitioner alleged that he was entitled to get interest in view of the provisions of Section 56, since refund was not sanctioned within 60 days from the date of receipt of the application. It was also submitted that wordings of Section 11BB of the Central Excise Act, 1944 and Section 56 of CGST Act, 2017 are same and thus relied upon Ruling of Hon'ble Apex Court for Section 11BB of Central Excise Act and relied upon ruling Of Apex Court in the matter of Ranbaxi Laboratories Ltd. v. Union of India, reported in 2011 (273) E.L.T 3 (S.C).</p> <p><b><u>High Court held that provisions of Section 56 are clear and unambiguous and are mandatory provision. The said provision entitles petitioner to claim interest on delayed refunds.</u></b> However, the respondent authority has not granted interest on the delayed refunds, which according to the Court, was against the provisions of Section 56. Petitioner was thus held entitled to interest on delayed refund.</p>
2	Section 129	Matter remanded back as no finding brought on record to disbelieve the contention of petitioner of e-way bill being expired due to driver falling ill	<b>[2023] 153 taxmann.com 726 (Allahabad) Rateria Laminators (P.) Ltd. v. Additional Commissioner Grade 2</b>	<p>The petitioner transited goods from Uttar Pradesh to West Bengal and goods were accompanied by requisite documents. Eway bills were valid upto 12.3.2023 whereas goods were intercepted on 14.3.2023. Thereafter proceedings were initiated only the ground that the goods were transited after expiry of the Eway bills. No other discrepancy was found either in quality, quantity or goods. On the pointed query by High Court, counsel of revenue failed to point out any finding recorded by any of the authorities about evasion of payment of tax. He only submitted that the intention of the petitioner was not clear as he transited the goods after expiry of the Eway bills.</p> <p><b><u>High Court from a perusal of the order, observed that the reply submitted by the petitioner was rejected by only saying that the reply was not found to be acceptable. No other reason was assigned for rejecting the claim of petitioner. Also no reason was assigned by any of the authorities in the impugned orders for disbelieving the contention of petitioner of break-down of vehicle.</u></b> Therefore, impugned were quashed and matter was remitted back.</p> <p><b>Cases Referred-</b> Gobind Tobacco Manufacturing Co. v. State of U.P. (2022 (61) GSTL 385 (All.), Assistant Commissioner (ST) v. Satyam Shivam Papers Pvt. Ltd. (2022 (57) GSTL 97 (SC))</p>
3.	Section 54	Limitation period stops running once Refund application filed with required documents, although officer may require further documents to verify claim	<b>National Internet Exchange of India v. Union of India [2023] 153 taxmann.com 709 (Delhi)</b>	<p>High Court observed that there was no dispute that petitioner's application for refund dated 30.01.2019 was accompanied by the documents as prescribed under Rule 89(2) of the CGST Rules. However, the petitioner's application was not processed as the proper officer had noticed certain discrepancies and required certain clarifications and Deficiency memo was issued on dated 11.11.2019 setting out the description of the deficiencies. It was further observed that the proper officer also required petitioner to provide certain documents in order to verify its claims for refund and out of which it was also apparent that some of the documents demanded were not relevant as the petitioner's claim was for refund of IGST and not unutilised ITC.</p> <p><b><u>High Court, thus held that nature of the deficiencies as set out in deficiency memo indicated that application filed by petitioner was not incomplete in terms of Rule 89(2) of the CGST Rules,</u></b> therefore application for refund filed by the petitioner on 31.10.2019 could not be ignored or disregarded. It was clear that the petitioner had complied with the said requirement inasmuch as it had filed an application for refund on 31.10.2019 in the "form and manner" as prescribed in the CGST Act and the CGST Rules. <b><u>Thus, in terms of Section 54(1) of the CGST Act, the period of limitation would stop running notwithstanding that the proper officer required further documents or material to satisfy himself that the refund claimed was due to the petitioner.</u></b></p> <p><b>Cases Referred-</b> Bharat Sanchar Nigam Ltd. v. Union of India[2023] 151 taxmann.com 536 (Delhi)</p>
4.	Section 107	Delay in Filing of Appeal condoned and directed to be disposed on merits	<b>Tvl. Samikkannu Senthil Kumar V. Appellate Deputy Commissioner (ST) (FAC) [2023] 153 taxmann.com 698 (Madras)</b>	<p>The High Court observed that order passed by the Appellate authority rejecting the appeal of the petitioner cannot be questioned as the appeal had been filed belatedly but at the same time, it was also evident that the Assessment order was hosted on the website on 05.07.2022 but petitioner was unaware of the same. <b><u>Considering the above and to balance interest of parties, Court condoned the delay in filing the appeal by the directing the first respondent to dispose of the appeal of the petitioner on merits and in accordance with law.</u></b></p>