

S.N.	Section	Case Subject	Case	Held
1.	Section 73	Passing of order by mere recitation of submission by taxpayer with no discussion on merits is arbitrary	Rainbow Motors v. Assistant Commissioner (ST) [2023] 154 taxmann.com 310 (Madras)	In the instant matter, the authority had while passing the order elaborately reproduced reply of the petitioner from Internal Page No. 2 of the impugned order upto the Internal Page No. 9. However, there was no discussion and thus the High Court held that the impugned order was passed in an arbitrary manner without considering the reply of the petitioner. The impugned order was thus <i>set aside</i> and the case was remitted back to the authority to pass a fresh order on merits and in accordance with law.
2.	Section 129	Buyer cannot be held responsible for mistake committed by seller in generating the invoice for Bill to Ship To model Order to be passed within 7 days from the date of service of notice	Tvl.T M Steel v. Deputy State Tax Officer [2023] 154 taxmann.com 281 (Madras)	The petitioner i.e, Tvl.T M Steel had received an order for supply from Mr. T.Balaji (HUF). The petitioner in turn had placed an order for the supply with M/s.Rashmi Mataliks Limited (hereinafter referred to as M/s.Rashmi) and instructed them to directly send the consignment to Mr.T.Balaji (HUF). The vehicle and goods were detained as M/s.Rashmi while generating the tax invoice M/s Rashmi , correctly mentioned Name, address and GSTIN of Tvl.T.M. Steel in the Billed To column. However, in Shipped To column, instead of mentioning Tvl.T.Balaji, it mentioned Tvl.TM Steel. But in address column, it clearly mentioned address of Tvl.T.Balaji. The High Court observed that it can be considered as typographical error only. Moreover, it was not the mistake of Tvl.TM Steel, it was the mistake committed by M/s.Rashmi. The authority did not communicate to the counterpart at Bengal to question M/s.Rashmi. It was not known how the authorities penalizing the petitioner when the petitioner had not committed the said mistake. When the petitioner had not committed such mistake, the authorities had left the goods in the vehicle for the past 10 days, thereby damaging the vehicle and goods. Further, authority had not passed order with 7 days from the date of service of such notice. Under Section 129(3) of the Act, the order ought to be passed within 7 days from the date of serve of such notice. Since there is clear violation of the provisions of the Act and hence the detention of goods is against the provisions. Therefore, the court directed the petitioner to pay Rs. 5,000/- as penalty and goods being released and authorities were at liberty to intimate the mistake committed by M/s.Rashmi Mataliks Limited to their counterpart in West Bengal and take appropriate action.
3.	Section 83	Can State Tax Officer be Proper Authority to exercise power U/Sec 83	Saket Agarwal v. Union of India [2023] 154 taxmann.com 279 (Bombay)	The Court had heard the proceedings earlier and had adjourned it to enable the learned AGP to take instructions as to whether the State Tax Officer would be the proper officer to exercise jurisdiction under Section 83 of the MGST Act so as to issue the impugned communication. It was fairly stated on instructions on the date of hearing, that the State Tax Officer would not have any jurisdiction to issue such communication, therefore, impugned communication was withdrawn by the officer who had issued it. The High Court thus held that as the impugned communication itself was withdrawn, an intimation of withdrawal of such communication be immediately sent to the Officer-In-Charge of the Central Depository Services (India) Ltd.
4.	Section 54	Refund can only be withheld for the amount pertaining to supplies from a non-existent supplier and balance amount to be refunded	Solidum and Stars Guild LLP v. Commissioner of Central Tax, Appeal-II, [2023] 154 taxmann.com 271 (Delhi)	Petitioner had filed a refund application and Adjudicating Authority issued a SCN proposing to reject petitioner's claim because supplier/s were reported as Non-Existent by the respective jurisdictional CGST authorities. Although petitioner replied to the SCN but the Adjudicating Authority rejected petitioner's application for refund as it was found on verification, that one of the suppliers named M/s Siddhi Impex was non-existent. There was no allegation in respect of any of the other suppliers, the details of which were provided by the petitioner. The petitioner preferred an appeal under section 107 and the same was also rejected as one of the supplier was found to be non-existent and concluded that the appellant 'had not received any input/input services from M/s Siddhi Impex'. However, there was no allegation regarding any of the other suppliers, the details of which were supplied by the petitioner. The petitioner in the writ petition, did not seek to question the decision of the Adjudicating Authority or the Appellate Authority in rejecting the petitioner's claim for refund in respect of the ITC in relation to the supplies received from M/s Siddhi Impex; he confined his relief to refund of the ITC in respect of inputs received from other suppliers, amounting to Rs. 54,99,846. The High Court observed that there was no allegation regarding any irregularity in respect of the supplies made by the suppliers other than M/s Siddhi Impex. There was also no dispute as to the quantum of the ITC in respect of those supplies. Neither the Adjudicating Authority nor the Appellate Authority has raised any doubt in respect of those supplies. Therefore, there was, no reason for denial of refund in respect of ITC pertaining to supplies made by suppliers other than M/s Siddhi Impex.
5.	Section 129	Penalty U/Sec 129(1)(b) not applicable as E-Way Bill & Document of title to goods were accompanying goods	Diginx Trader v. State of U.P. [2023] 154 taxmann.com 267 (Allahabad)	Writ Petition was filed against the order whereunder penalty of Rs. 72,76,500/- had been levied upon the petitioner by not treating the petitioner to be the owner of goods. Admittedly, the goods were duly accompanied by the tax invoice, e-way bill and bilty issued in the name of the petitioner as the consignee. It was further contended that the petitioner was the owner of the goods and was ready and willing to deposit penalty under protest under section 129(1) (a) to get the goods released considering the perishable nature of the goods and diminishing of its value substantially with the onset of monsoons. The High Court observed that revenue could not dispute the fact that intention to evade tax is a per-requisite for imposition of penalty under section 129. E-way Bills being the documents of title to the goods were accompanying the goods hence, conclusion of revenue that the petitioner was not the owner of the goods is patently erroneous. Consequently, it was held that penalty proceedings were liable to be initiated U/Sec129(1)(a) and not 129(1)(b) as was done. Case Relied- Sahil Traders v. State of U.P. [Writ (Tax) No. 178 of 2023, dated 25-5-2023]