

Indirect Tax

September 2024



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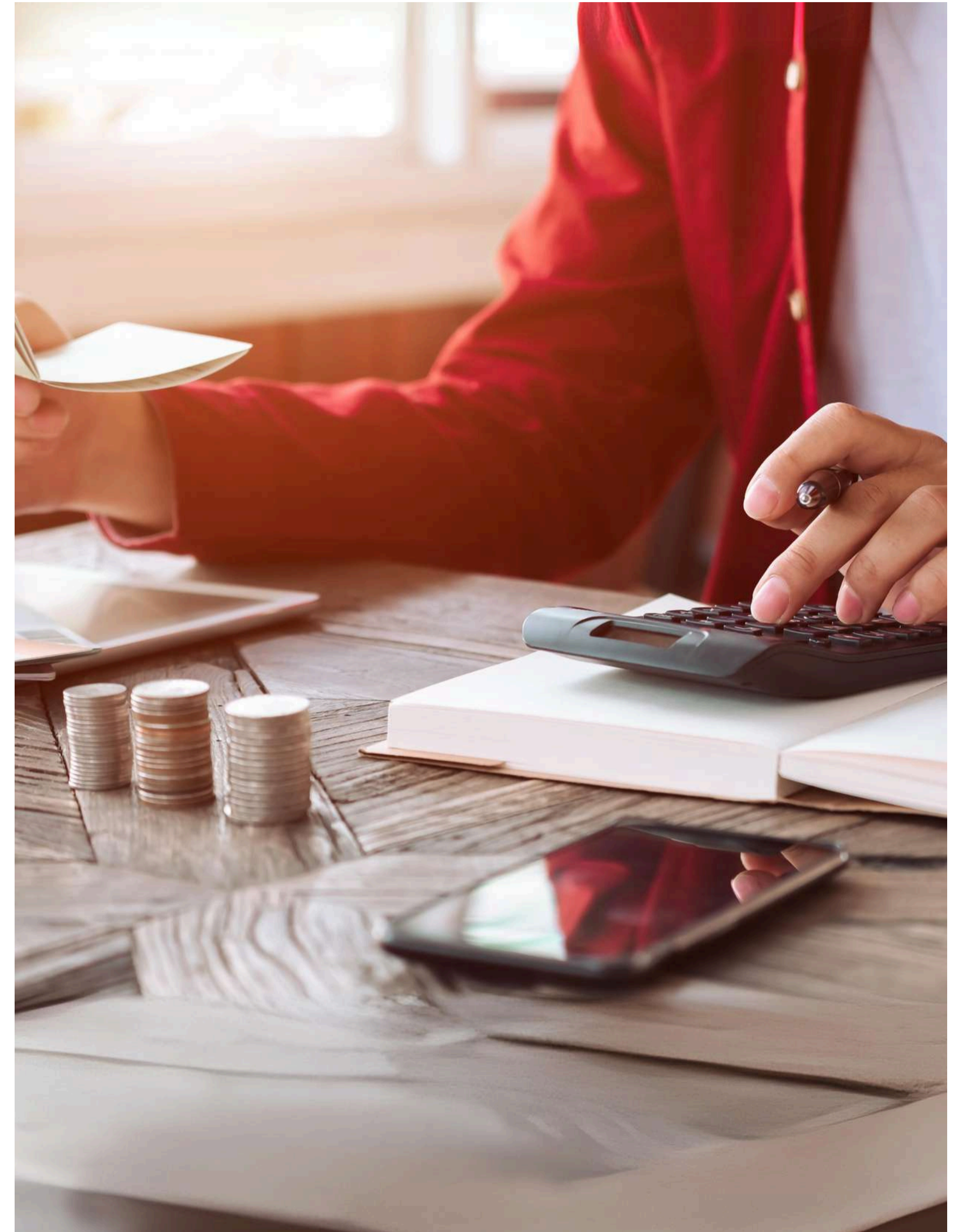
The CBIC issued **Notification No. 16/2024-Central Tax dated August 06, 2024**, announcing that section 13 of the Finance (No.1) Act, 2024, will take effect on October 01, 2024, and section 11 and section 12 will take effect on April 1, 2025.

The CBIC issued Notification No. 17/2024-Central Tax dated September 27, 2024, notifying the effective dates that sections 118, 142, 148, and 150 will take effect from September 27, 2024. Additionally, sections 114 to 117, 119 to 141, 143 to 147, 149, and 151 to 157 will come into force on November 01, 2024.

Section 16(5): Deadline extended for claiming ITC for invoices or debit notes to November 30, 2021 for financial years 2017-18, 2018-19, 2019-20 and 2020-21.

Section 16(6): ITC can be availed in case of revocation of cancellation of GST registration, where returns are filled within 30 days of the revocation order.

Section 109: Government is empowered to notify types of cases that shall be heard only by Principal Bench of Appellate Tribunal, including Anti-





profiteering matters.

Section 118: Refund shall not be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 118 been in force at all material times.

Section 171: Introduced a clause for Anti-Profiteering measures and align these cases to the GSTAT (GST Tribunal).

Changes effective from November 01, 2024 in GST

Section 9: Udenatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption are excluded from purview of GST.

Section 11A: Government empowered to regularize past discrepancies in tax practices by issuing a notification, ensuring that businesses are not unduly penalized for following a generally accepted but incorrect tax practice.

Section 13(3): Time of supply of services are specified where the self-invoice has to be issued by the recipient of services liable to pay GST under Reverse Charge Mechanism (RCM).

Notifications & Updates

Section 17(5): Restriction of the non-availability of input tax credit in respect of tax paid under section 74 of the Act only for demands up to Financial Year 2023-24.

Section 30: Central Government empowered to prescribe conditions and restrictions for revocation of cancellation of registration by rules.

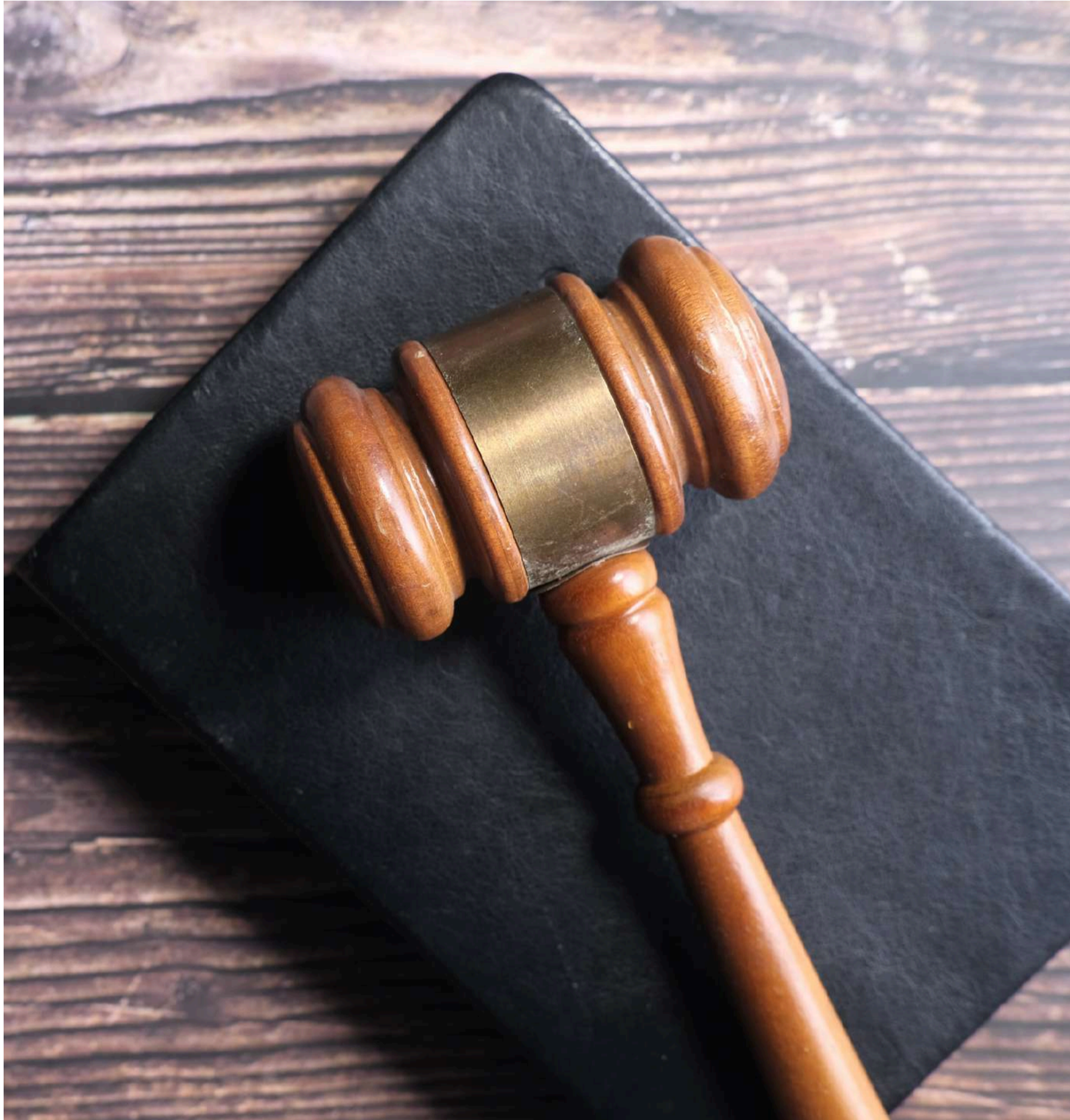
Section 31: Time limit proposed for issuance of invoice by the recipient in case the recipient is liable to make payment of taxes under Reverse Charge Mechanism.

Section 39: Provide registered persons required to deduct tax u/s 51 must file return in FORM GSTR-7 monthly, even if no tax has been deducted.

Section 54: IGST refunds are restricted for goods subject to export duty, including those exported or supplied to SEZs, regardless of with or without payment of tax.

Section 70: Authorized representative enabled to appear on behalf of the summoned person before the proper officer – Section 73 & 74: Provide that the different time limit for issuance of demand notices and orders pertains to period upto Financial year 2023-24.





Source: Hon'ble Delhi High Court Judgement Dated September 24, 2024 in case of Best Crop Science (P.) Ltd. vs. Principal Commissioner, CGST Commissionerate W.P.(C) Nos. 15380 of 2023 and 5250, 5395, 5397, 6997, 7183, 9350, 10980 of 2024 CM Nos. 61699 of 2023 and 38315, 45297, 45298 of 2024

Section 74A: Common time limit provided for issuance of demand notices and orders for period pertaining to Financial year 2024- 25 onwards.

Section 107: Amount of pre-deposit reduced which required to be paid for filing of appeal under GST.

Blockage should only apply to the ITC that is available in the ECL at the time the order is issued, not the past ITC.

Facts

The petitioners had ITC in their ECL that they wanted to use. The authorities blocked the use of ITC, stating it was wrongfully claimed. However, they also issued orders requiring the petitioners to “replenish” the ITC that had already been used in past transactions.

Held

The court ruled that Rule 86A is meant only to temporarily block the use of current ITC available in the ledger, not to force taxpayers to restore or pay back ITC that had already been used. Thus, the order blocking ITC beyond what was currently available in the ECL at the time of the order was incorrect and set aside. This ruling clarifies that the use of Rule 86A must be limited to protecting revenue in ongoing situations and not as a tool for recovering past dues.

Judgements

Invalid Show Cause Notices Issued to Dissolved Firm.

Facts

In this case, a partnership firm was originally made up of two partners. During the Covid-19 pandemic, one of the partners passed away, which led to the firm no longer existing (since the firm cannot continue with just one partner). Despite this, a show cause notice (a formal notice asking why legal action should not be taken) was issued to this firm, which had already ceased to exist.

Held

The show cause notices issued to the dissolved firm were invalid. However, the tax authorities have the right to proceed against the surviving partner and the legal heirs of the deceased partner for the taxes owed, based on their respective shares.

Demand Based on GSTR-01 and GSTR-09 Mismatch

Facts

The tax authorities issued a demand under Section 79 of the CGST Act due to a mismatch between the taxpayer's GSTR-01 (which reports sales) and GSTR-09 (the annual return). The taxpayer argued that the mismatch was caused by a technical glitch in the GST portal. Specifically, the issue occurred when the taxpayer reported adjustments related to advance





Source: Hon'ble Delhi High Court judgement dated September 17, 2024 in case of Celebi Delhi Cargo Terminal Management India (P.) Ltd. vs. Sales Tax Officer W.P. (C) No. 7655 Of 2024 Cm Appl. No. 31863, 53916 Of 2024

payments in Table 11B of GSTR-01. Instead of reducing the output tax liability as it should have, the GST portal wrongly added the GST component to the tax liability, leading to an overstatement of taxes owed. The taxpayer explained that this portal error was the reason for the mismatch, but the authorities did not accept this explanation and confirmed the demand as proposed in the Show Cause Notice (SCN). The taxpayer further pointed out that a similar issue had occurred in the next tax period, and in that case, the adjudicating authority had investigated the matter, accepted the explanation about the technical glitch, and dropped the demand. Despite this precedent, the authorities in this instance refused to acknowledge the glitch and upheld the demand.

Held

Since the adjudicating authority had already reviewed and accepted the taxpayer's explanation about the technical glitch in a similar case for a later period, the current order was found to be inappropriate. Therefore, the court decided that the order should be set aside (cancelled), and the case should be sent back (remanded) to the adjudicating authority. This would allow the authority to reconsider the matter afresh, taking into account the same issue that had been resolved in the taxpayer's favor for the subsequent period.

Appeal Cannot Be Rejected for Late Certified Copy

Facts

The petitioner's appeal to the appellate authority was rejected because it was submitted after the deadline, making it barred by limitation. The reason for this was that the petitioner did not provide a self-attested copy of the order they were appealing within the time limit specified under Rule 108 of the CGST Rules. In simple terms, the appeal was dismissed because the required documents were not submitted on time, as per the rules

Held

In the case of Visible Alpha Solutions India (P.) Ltd. v. Commissioner, CGST Appeals, it was decided that if an appeal is filed within the three-month time limit set by the law, the appeal should not be rejected just because the certified copy of the decision was not filed in time. Based on this ruling, the order rejecting the assessee's appeal in the current case cannot be legally justified. As a result, the order should be quashed (cancelled), since the appeal was filed within the correct time frame.

Source: Hon'ble Allahabad High Court judgement dated September 09, 2024 in case of Patel Beej Bhandar vs. State of U.P Writ Tax No. 1299 of 2024.





Digitization of Customs Bonded Warehouse procedures relating to obtaining Warehouse License, Bond to Bond Movement of warehoused goods, and uploading of Monthly Returns

CBIC vide Circular No-19/2024 dated September 30, 2024 of Customs introduces digitization of Custom Bonded Warehouse module for ease of doing business for exporters

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GST Revenue

Digitization of Customs Bonded Warehouse procedures relating to obtaining Warehouse License, Bond to Bond Movement of warehoused goods, and uploading of Monthly Returns

GST collections in India for September were Rs 1.73 lakh crore, which is lower than August's Rs 1.75 lakh crore. August saw a 10 per cent increase from last year with collections of Rs 1,74,962 crore.



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