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Notifications and Updates

CBIC issues guidelines for CGST field formations in maintaining ease of doing business while engaging in investigation with regular taxpayers

The Ministry of Finance, under the Central Board of Indirect Taxes and Customs, has issued Instruction No. 01/2023-24-Central Tax, dated March 30th 2024 CGST field formations in maintaining ease of doing business while engaging in investigation with regular taxpayers.

Detailed Analysis: Keeping relevant aspects in view, the Board has desired that the following guidelines, henceforth, should be followed in the CGST Zones while engaging in investigation, subject to legal provisions or instructions issued on this behalf.

- Within the allocated jurisdiction of Commissionerate under Notification No. 2/2017-Central Tax dated 19.06.2017, the (Pr.) Commissioner shall be responsible for developing and approving any intelligence, conducting search, and completing investigation in a case and the relevant subsequent action, including in the divisional formations, etc.
- Any information or intelligence which pertains to another CGST field formation, that may have been generated /collected /received /recorded by such field formation (or even developed in the course of an investigation, including with respect to end-availer(s) of ITC), shall be forwarded by the (Pr.) Commissioner to the concerned CGST field formation or DGGI, as the case may be.
- Each investigation must be initiated only after the approval of the (Pr.) Commissioner, except in the following situations where the prior written approval of the zonal (Pr.) Chief Commissioner shall be required if investigation is to be initiated and action to be taken in a case falling under any of the following four categories, namely case involving:

- Matters of interpretation seeking to levy tax/ duty on any sector/ commodity/ service for the first time, whether in Central Excise or GST.

- Big industrial house and major multinational corporations; or

- Sensitive matters or matters with national implications; or

- Matters which are already before GST Council.

- The fact of initiation of inquiry, if any, already on same subject matter with respect to the same taxpayer/GSTIN by another investigating office or tax administration must be ascertained for purposes of obtaining approval to initiate investigation. The position must be placed before the authority who is to approve initiation of investigation.



Judgements

High Court allowed the petitioner a chance to present their case with supporting documents after paying a percentage of the disputed tax, leading to the cancellation of the previous order.

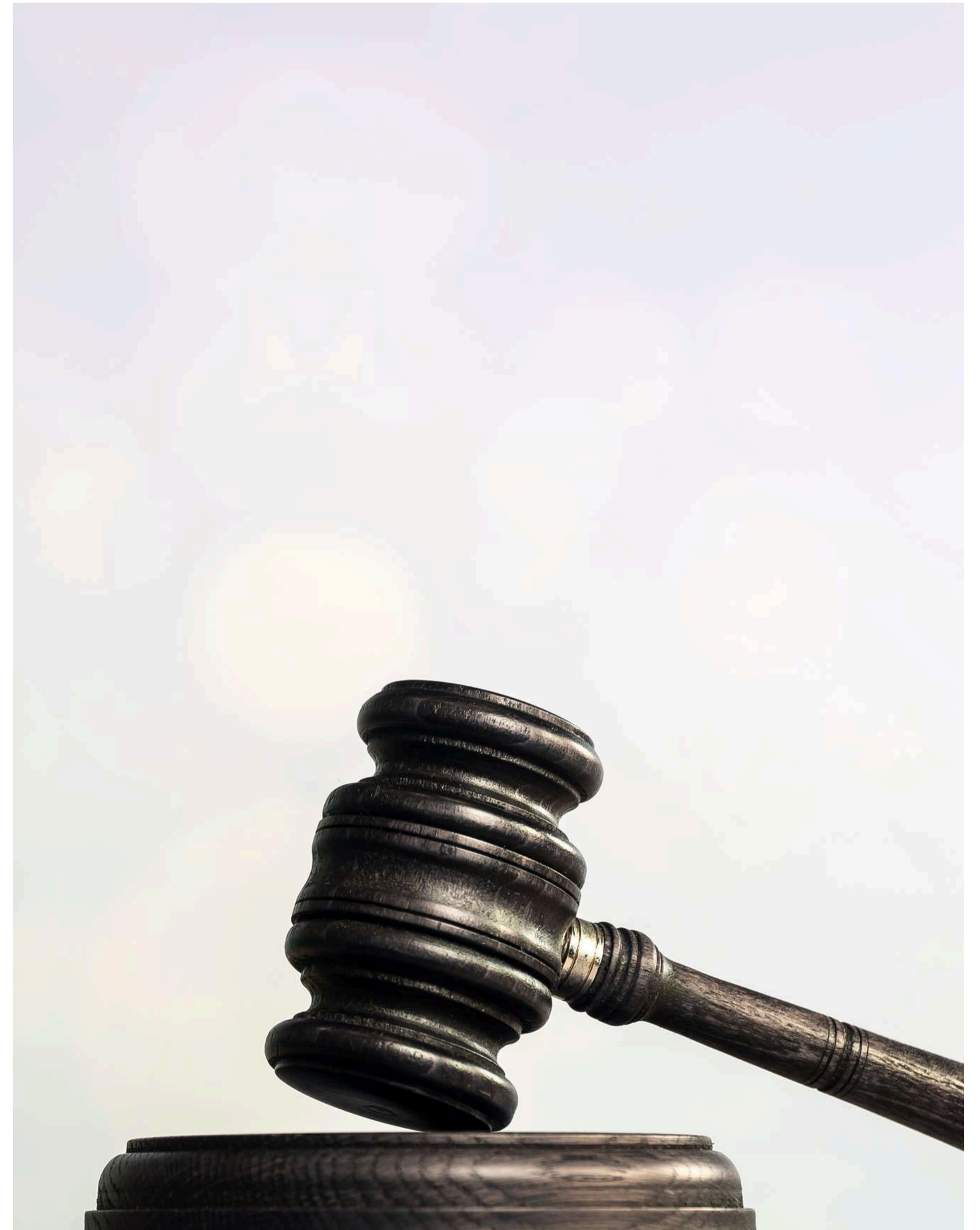
Facts

An assessment order issued on 04.07.2023 was challenged by the petitioner due to a difference in taxes reported in their GSTR 3B returns compared to their GSTR 2B statement. The petitioner claimed this difference was due to how they claimed Input Tax Credit for customs duty. The petitioner's lawyer argued that their explanation was not properly considered in the assessment order, and they were willing to pay 10% of the disputed tax for a review. Mr. T.N.C. Kaushik, representing the government, mentioned that the appeal time had passed but accepted notice on behalf of the respondent.

Ruling

The court noted that the petitioner's explanation was not fully considered due to lack of supporting documents. However, they agreed to cancel the current order on the condition that the petitioner pays 10% of the disputed tax within two weeks and submits supporting documents regarding their Input Tax Credit claim. If the petitioner meets these conditions, they will have a chance to contest their claim, including a personal hearing. The court expects a new decision within two months after reviewing the documents. The case with reference number W.P.No.8468 of 2024 was resolved based on these terms, with no additional costs incurred. Related matters, specifically W.M.P.Nos.9420 and 9422 of 2024, are now closed.

Source: Hon'ble Madras High Court Judgement dated March, 27 2024 in case of M/s. Subh Sri Agencies Vs The Deputy State Tax Officer W.P. N o.8468 of 2024 and W.M.P.Nos.9420 & 9422 of 2024





High Court says When the State Authorities had already started legal actions against the assessee, receiving summons from the DGGI under section 70 of the CGST Act doesn't count as starting new legal actions on the same topic

Facts

The Directorate General of Goods and Services Tax Intelligence (DGGI) and State Authorities issued summons to the assessee. The assessee argued that since the State Authorities had already started proceedings, according to section 6(2)(b), if a proper officer under the State Goods and Services Tax Act or Union Territory Goods and Services Tax Act has initiated proceedings on a particular subject matter, then no proceedings should be initiated by the proper officer under the CGST Act on the same subject matter.

Ruling

The scope of section 6(2)(b) and section 70 was different and distinct. Section 6(2)(b) pertained to any proceedings on a subject matter, while section 70 dealt with the power to issue summons in an inquiry. Therefore, the terms 'proceedings' and 'inquiry' should not be confused to imply a restriction on the respondents from using the power under section 70. Issuing summons under section 70 was not affected by section 6(2)(b), and thus the writ petition was to be dismissed.

Source: Hon'ble Rajasthan High Court Judgement dated March, 14 2024 in case of Rais Khan vs. Add. Commissioner, Enforcement Wing-II, Rajasthan, D.B. Civil Writ Petition No. 3087 Of 2024

Judgements

High court direct GST department to consider revocation petition filed by assessee.

Facts

The cancellation of the assessee's registration was revoked due to an incorrect Field Visit Report that falsely indicated the assessee's non-functioning status at a specific address. The assessee clarified that the report in question dated 29-8-2023 was erroneously associated with them, as it actually pertained to a different entity at an entirely separate address. Despite this, the assessee had already submitted a petition for revocation prior to this clarification.

Ruling

The Competent Authority received directions to review the revocation petition submitted by the assessee, taking into account both the legal requirements and the assessee's argument regarding the reliance on an inaccurate Field Visit Report. An order was to be issued within a timeframe of two weeks, and the disposition of the writ petition was imminent.

Source: *Hon'ble Delhi High Court Judgement dated March, 06 2024 in case of Gulab Nagar vs. Assistant Commissioner, Ward-26, W.P.(C) No. 3383 Of 2024 Cm. Appl. No. 13887 Of 2024*



Judgements

High court says final decision was made without considering this reply, the decision was deemed invalid. The case was sent back to the Adjudicating Authority to review it again.

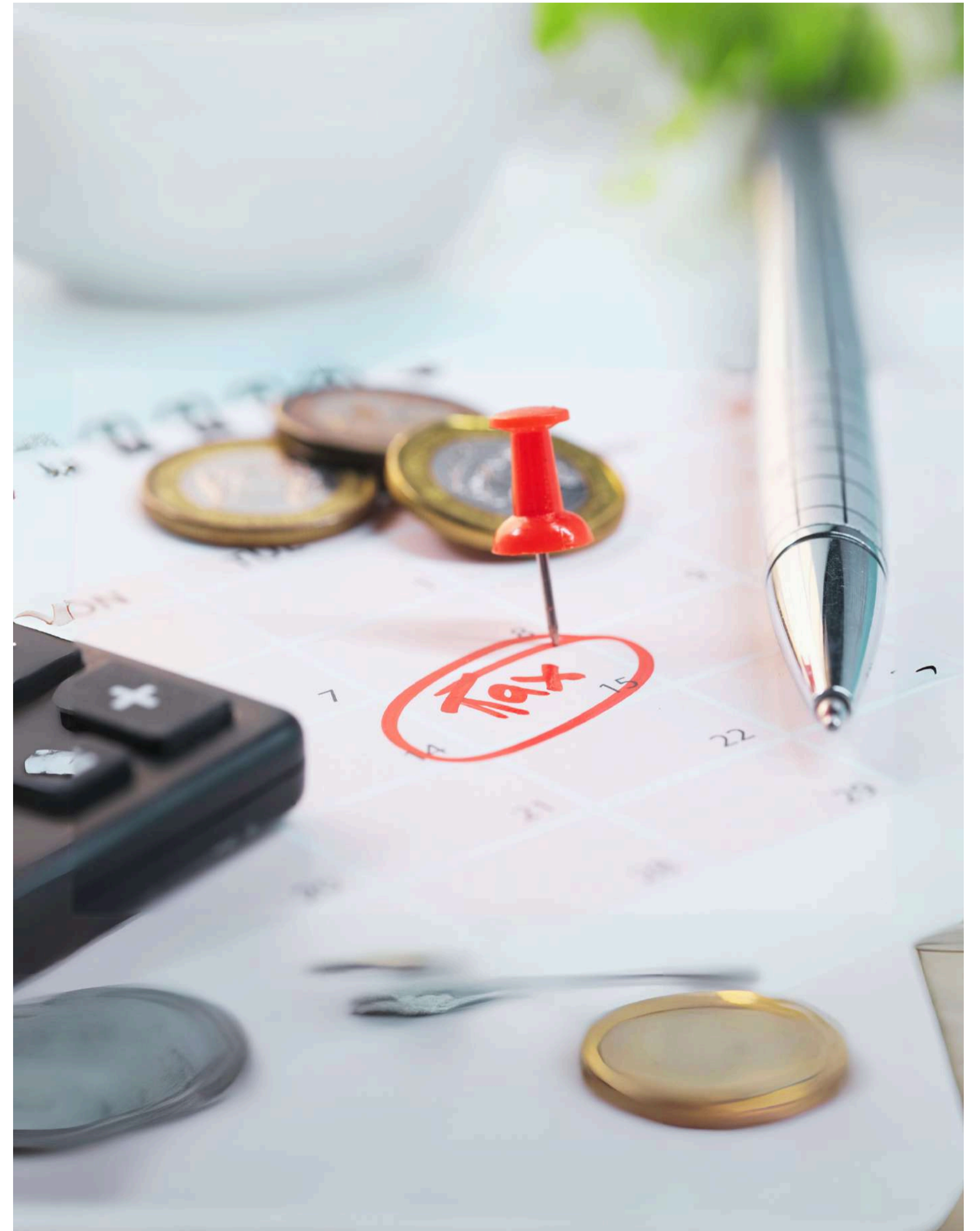
Facts

Demands concerning taxes or Input Tax Credit (ITC) that don't involve fraud were slated for re-adjudication through an unclear order. A show cause notice was sent to suggest demands against the assessee, to which a thorough response was given. However, the final order was issued without taking into account the response provided by the assessee, and it lacked clarity.

Ruling

The disputed order was considered unacceptable because the assessee had provided a detailed response. The authorized officer should have assessed the response based on its content before deciding if it was sufficient. Furthermore, if the officer found the response lacking and needed more information, they should have clearly asked the assessee for it. However, there is no proof in the records that such an opportunity was given to the petitioner to clarify their response or provide additional documents/details. As a result, the matter was to be sent back to the authorized officer for re-evaluation.

Source: Hon'ble Delhi High Court Judgement dated March, 05 2024 in case Shri Krishna Industries vs. Commissioner of Delhi Goods and Services Tax W.P.(C) No. 3357 Of 2024 & Cm Application Nos. 13827-13828 Of 2024.





High court says the assessing officer was instructed to grant a personal hearing and then issue a fresh assessment order within two months.

Facts

The assessee provided services to a Special Economic Zone (SEZ) unit without charging Goods and Services Tax (GST) because it was considered a zero-rated supply. However, there was a mistake while filing the GSTR-1 return where the turnover was incorrectly reported under the taxable value column. In contrast, the GSTR-3B return correctly indicated it as a zero-rated supply, meaning no GST was applicable.

Ruling

The tax invoice showed that the supply was made to a Special Economic Zone (SEZ) unit and qualified as a zero-rated supply. The GSTR-3B return filed by the assessee correctly reflected this zero-rated supply. The assessee was given fifteen days to respond to the Show Cause Notice (SCN) by submitting all relevant documents. The assessing officer was instructed to grant a personal hearing and then issue a fresh assessment order within two months. The disputed assessment order was to be cancelled, and the matter was to be sent back for reconsideration.

Hon'ble Madras High Court Judgement dated March, 14 2024 in case of Southern Engineering Services vs. Deputy State Tax Officer-1, W.P. No. 6523 Of 2024 W.M.P. Nos. 7251 And 7252 Of 2024.

CBIC issues Circular to encourage Women participation in International Trade.

CBIC vide Circular No-02/2024 of Customs dated March, 08 2024 issues Circular to encourage women participation in International Trade

To make the most of trade as a catalyst for equality, women must be represented at all levels. Women also must be represented across different job roles and functions of trade – be it as traders, customs house agents, freight forwarders, or customs brokers. Keeping in view the growing participation of women in the logistics sector, a conscious effort is required by all participants including Partner Government Agencies (PGAs) and trade bodies in this regard.

Source: Circular No-13/2024 dated February, 13 2024 of Customs



GST Revenue

GST Revenue

Gross Good and Services Tax (GST) revenue for March 2024 witnessed the second highest collection ever at ₹1.78 lakh crore, with a 11.5% year-on-year growth. This surge was driven by a significant rise in GST collection from domestic transactions at 17.6%. GST revenue net of refunds for March 2024 is ₹1.65 lakh crore which is growth of 18.4% over same period last year.

Source: pib.gov.in



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