NITYA
tax associates

NITYA | Indirect Tax Bulletin

August 2022 | Week 1 and 2

August 18, 2022

Index

LEGAL PRECEDENTS

PART A: WRIT PETITIONS

Issue 1: Inordinate delay in adjudication of SCN

Ruling: The Respondent received SCNs in 2009 / 2010 alleging denial of Cenvat credit. The Respondent filed Writ Petition seeking to quash such SCNs which were unadjudicated for more than 11 years.

The High Court held that the expression 'where it is possible to do so' employed under Section 11A(11) of the Central Excise Act, 1944 does not mean that prescribed time can be extended perpetually without any logical explanation. In the absence of explanation for delay in adjudication, the Court quashed SCNs.

The Supreme Court has now dismissed SLP filed by revenue against the High Court order.

CGST&CE v. Shree Baba Exports, 2022-VIL-44-SC-CE

NITYA Comments: *There are multiple cases wherein revenue adjudicates / fixes hearing for adjudication after a long time gap post issuance of SCN. In such cases, taxpayers can rely on this decision and multiple High Court rulings contending that inordinate delay in adjudication is impermissible.*

This issue is not relevant under GST regime since under GST regime, the revenue needs to pass order within 3 years / 5 years (Section 73 / 74 of the CGST Act) from annual return date vis-à-vis earlier regime wherein the revenue had to issue SCN within prescribed period and time-limit for adjudication was not provided.

Issue 2: Mandatory generation of DIN in all States

Ruling: Supreme Court held that as per Article 279A of the Constitution, GST Council is empowered to make recommendations to the States on any matter relating to GST. GST Council can also issue advisories to respective States for implementation of Document Identification Number ('DIN') system. Basis above, the Court directed the UOI / GST Council to issue advisory / instructions / recommendations to respective States for implementation of electronically generated DIN in Indirect Tax administration.

Pradeep Goyal v. UOI, 2022-VIL-42-SC

NITYA Comments: *This ruling is another steps towards transparency in tax administration. Recently, Government of Andhra Pradesh issued Circular dated August 1, 2022 wherein it mandated system generated DIN w.e.f. August 1, 2022 for all notices, letters, mails, personal hearing notices etc.*

Issue 3: Statutory interest on delayed refund

Ruling: The Petitioner filed refund application and the revenue sanctioned refund beyond statutory time-limit. Due to delay in processing of refund, the Petitioner demanded statutory interest from the revenue.

The High Court observed that interest under Section 56 of the CGST Act is compensation for use of taxpayer's money and will get triggered after expiry of 60 days from receipt of refund application. The Court further held that limitation period extended by virtue of Supreme Court's orders in Suo Motu petition will not apply to case of belated grant of refund. Basis this, the Court directed revenue to pay interest to the Petitioner.

Ankush Auto Deals v. CDGST, 2022-VIL-561-DEL

RECENT NEWS

1. **GSTR-9 and GSTR-9C of FY 2021-22 is live now on GSTN portal**

2. **New rules: Airlines start sending mails to international flyers, seeking requited info**

   https://timesofindia.indiatimes.com/business/india-business/new-rules-airlines-start-sending-mails-to-international-flyers-seeking-requited-info/articleshow/93462936.cms.

....

Disclaimer:

NITYA
tax associates

CALL US

+91 11 4109 1200
+91 11 4109 1202

MAIL US

updates@nityatax.com
info@nityatax.com

REACH US

www.nityatax.com

Delhi:
B-3/58, Third Floor,
Safdarjung Enclave,
New Delhi – 110029

Mumbai:
91 Springboard Business Hub Private Limited
Plot No. D - 5, Road No. 20, Marol MIDC
Andheri East, Mumbai – 400093

DOWNLOAD OUR APP

GET IT ON Google Play

Download on the App Store

FOLLOW US

KEY ACCOLADES