

FROM COURTROOMS TO COMPLIANCE: ANALYSING KEY GST VERDICTS



CA Nirav Nisar
Email : nirav.nishar@gmail.com

Introduction:

The youngest tax law of India – GST, is about to turn 7 years old this year. During this journey, GST has witnessed various twists and turns, with judicial pronouncements helping to clarify things along the way. This article delves into analysis of significant recent judgments on GST. By examining these cases, we can gain valuable insights into how courts are approaching key issues like input tax credit (ITC) claims, refunds, rectification of errors in returns and penalties.

1. *Shri Shanmuga Hardware Electricals vs. The State Tax Officer (Madras HC)*

Writ Petition No. 3804 of 2024

Order dated 20.02.2024

ITC claims cannot be rejected solely based on non-declaration in the GSTR-3B

Facts:

- The dispute centers around Input Tax Credit (ITC) claims made by Shanmuga Hardware Electricals (Petitioner) for the assessment years 2017-2018, 2018-2019, and 2019-2020.
- Petitioner claims that the nil GSTR-3B were filed by mistake. The actual ITC was reflected in their GSTR-2A. Consequently, GSTR-9 (annual) returns were filed duly reflecting the ITC claims.
- However, the ITC claim was rejected solely on the ground that the Petitioner had not claimed ITC in GSTR-3B.

Held:

- Hon'ble Madras High Court held that the ITC should **not be denied merely** because such **ITC claim is not reflected in GSTR-3B** return.
- The Impugned Orders rejecting the ITC claim were quashed, and the matter was remanded back for reconsideration along with the instructions that Assessing Officer should examine the validity of ITC claims by considering all the relevant required documents, even if GSTR-3B does not reflect the ITC claim.

Takeaways:

Practically, the ITC declared in GSTR 3B is automatically credited to electronic credit ledger of GST portal. However, it is not the case with ITC declared in GSTR 9 (annual return). The ITC declared in GSTR 9 is not automatically credited to the electronic credit ledger. Therefore, taxpayers have to be careful before relying on this judgement, as they may face practical challenges in obtaining the ITC balance in their electronic credit ledger.

2. *Delhi Metro Rail Corporation Limited vs. The Additional Commissioner (Delhi HC)*

Writ Petition No. 6793 of 2023

Order dated 18.09.2023

Period of limitation for claiming refund is not applicable where GST itself was not chargeable

Facts:

- The petitioner, Delhi Metro Rail Corporation, provided services to Surat Municipal Corporation for preparing a Metro Rail Project Report
- Petitioner raised an invoice with GST, which was later informed by Surat Municipal Corporation that the services were exempt and GST need not be charged
- Thus, Petitioner filed a refund application, but it was rejected as being barred by limitation

Held:

- Hon'ble Delhi High Court held that the limitation period of two years under Section 54 (1) of the CGST Act, cannot be invoked when the tax is collected without legal authority

Takeaways:

- This judgement helps taxpayers to claim refund of amount that has inadvertently paid considering it to be tax.
- It can also help to claim the refund of amount paid under protest in a smooth manner.

3. *Star Engineers (I) Pvt. Ltd. vs. Union of India and others (Bombay HC)*

Writ Petition No. 15368 of 2023

Order dated 14.12.2023

The case revolved around the ability to rectify errors in a specific Goods and Services Tax (GST) return form, the GSTR-1, after the deadline for filing it had passed.

Facts:

- Star Engineers (I) Pvt. Ltd. (Petitioner) was engaged in designing, development, manufacturing, and supply of electronic components.
- During the financial year 2021-2022, Petitioner made deliveries to third-party vendors on the instructions of their regular client viz. Bajaj Auto Limited (BAL). This was a common "Bill-to-Ship-to Model" where billing party was BAL and shipping party were third-party vendors
- From documentation perspective, Star Engineers contended that e-invoices and credit notes were correctly billed on BAL. However, from reporting perspective at the time of filing GSTR-1, GSTIN of third-party vendors were reported instead of BAL
- This inadvertent error was noticed in Nov'22 and it had resulted into excess reflecting of ITC in 2B of third-party vendors and deficit ITC in 2B of BAL

- To rectify this inadvertent error, Star Engineers submitted an application to GST Authorities. However, the application was rejected on the ground that the time limit to rectify such error in GSTR-1 was expired.
- Being aggrieved by such incident, Star Engineers filed petition before the Hon'ble Bombay High Court to rectify the mistake in their GSTR-1 form even though the deadline for rectifying it had expired. They argued that the error was unintentional and did not reflect any attempt to evade taxes.
- They also highlighted that, due to such an error, BAL was unable to claim ITC as the transactions were not reflected in 2B of BAL. Consequently, BAL adjusted such loss from the payment due to Star Engineers.

Held:

- Hon'ble Bombay High Court ruled in the favour of Star Engineers.
- The court allowed them to rectify the factual errors in their GSTR-1 even beyond the specified time limit.

Takeaways:

The court's decision highlighted the **importance of allowing businesses to correct bona fide errors** and ensure accurate GST return filing. This judgement is considered a landmark decision as it provides relief to taxpayers who might have made unintentional mistakes in their GST return filings.

4. *Raidi Steels LLP vs. State of UP (Allahabad HC)*

Writ Petition No. 974 of 2022

Order dated 21.02.2024

Penalty cannot be imposed on expiry of E-way Bill in absence of any intention to evade tax

Facts:

- In this case, Raidi Steels LLP (Petitioner) had challenged the imposition of penalty levied on account of e-way bill expiry
- Petitioner had transported goods along with e-way bill and e-invoice. However, 4 days prior to the date of detention, the e-way bill got expired
- Petitioner submitted the reason, that driver was driving the vehicle slowly and intermittently stopping the vehicle so that the engine did not get overheated. GPS tracking was also produced by Petitioner indicating that the vehicle was travelling as per the original route
- In counter, Respondent submitted in event where e-way bill expires, there is a provision in the portal that allows the transporter/consignor/consignee to seek extension of the e-way bill.
- Since Petitioner had not extended the e-way bill, it was contravention of Section 129(3) of CGST Act and thus, the penalty was imposable

Held:

- After hearing both the parties, the Hon'ble Allahabad High Court ruled in favour of Raidi Steels LLP.

- The court pronounced that *mens rea* to evade tax is essential for imposition of penalty. However, *mens rea* was absent in the factual matrix of the present case.
- The breach committed by Petitioner was merely a technical breach and it cannot be the sole ground for imposition of penalty on expiry of e-way bill.

Takeaways:

- This judgement will provide relief to genuine cases where there is no intention to evade tax
- Certain High Courts have also viewed that penalty under Section 129 of CGST Act is impossible irrespective of intention to evade tax. Thus, taxpayers need to be careful while relying on this judgement and substantiate their arguments accordingly.

Conclusion:

The evolving landscape of GST jurisprudence, as reflected in these recent judicial pronouncements, continues to provide much-needed clarity and direction for taxpayers, tax authorities and stakeholders. By closely following these developments and staying abreast of judicial interpretations, businesses can ensure better tax optimizations, GST compliances and navigate through the complexities of the GST regime in an effective manner.

