

TaxByKK's

HANDLING

GST NOTICES

UNDERSTANDING (GENERAL, ASMT 10, DRC 01, DRC 07),
REPLYING (TECHNICAL, LAW, MERIT) AND FILING APPEAL

THIS BOOK IS DEDICATED TO
MY BELOVED FATHER
LATE SH. TEJ PAL AGRAWAL

Hare Krishna Hare Krishna
Krishna Krishna Hare Hare
Hare Ram Hare Ram
Ram Ram Hare Hare

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UNDERSTANDING (GENERAL, ASMT 10, DRC 01, DRC 07),
REPLYING (TECHNICAL, LAW, MERIT) AND FILING APPEAL

CS Kaushal Kumar Agrawal

Practising Company Secretary

GST Trainer, Speaker, Author, Faculty and Consultant

2

Volume

*Useful for
Practitioners, Professionals and Students*

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***Handling
GST Notices***

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He cordially invites all GST practitioners to join him for an informative and comprehensive exploration of GST, in discovering the intricacies of the GST structure and and learn the very minute detail of GST.

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Structure of our GST books

Volume 1: Basic to Advanced GST Law

Volume 2: Handling GST notices and GST Appeals with draft replies

Volume 3: Practical aspects of GST Refund and IGST Law

Volume 4: Mastering GST in ISD, Job Work, Valuation Rules, Schedule II and Section 11A.

GST Council Meeting Minutes

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1. Levy in GST / Service Tax				
1.	Charitable Trust running medical store to give medicines without profit required to be registered under GST since covered the definition of Business.	09.07.2021	Gujarat High Court	Nagri Eye Research Foundation v. UOI <i>r/special civil application no. 7822 of 2021</i>
2.	Indian Company Liable To Service Tax On Secondment Of Employees From Overseas Group Entities As Recipient Of Manpower Supply.	19.05.2022	Supreme Court of India	Northern Operating System <i>Civil Appeal No. 2289-2293 OF 2021</i>
2. Exemption				
1.	GST exemption of branded or non branded goods whether available ?	20.04.2021	Tripura High Court	S Sarvasiddhi Agrotech Pvt. Ltd Vs UOI <i>W.P. (C) No.279/2021</i>
2.	Contributions to RWA in excess of 7,500 is taxable and upto 7500 exempt	01.07.2021	Madras High Court	Greenwood owners associations vs UOI <i>W.P. Nos.5518 & 1555 of 2020</i>
3.	GST exempt on services provided by applicant to schools/education organizations in relation to ASSET examination	18.02.2022	Gujarat High Court	Educational Initiatives Pvt. Ltd. Vs Union of India <i>R/Special Civil Application No. 16476 of 2021</i>
3. Payment of tax, Interest or late fees				
1.	Interest cannot be levied on Gross GST Liability before adjusting ITC	06.01.2020	Madras High Court	<i>M/s.Reflex Industries Limited Vs The Assistant Commissioner of CGST & Central Excise Writ Petition Nos.23360 and 23361 of 2019 & WMP Nos.23106 and 23108 of 2019</i>
2.	Interest not applicable if taxpayer has ITC balance.	29.09.2020	Madras High Court	<i>M/s. Maansarovar Motors Private Limited Vs The Assistant Commissioner W.P. No. 4468 of 2020</i>
3.	Payment of pre deposit from ITC not allowed.	07.10.2021	Orissa High Court	<i>Jyoti Construction Vs Deputy Commissioner of CT GST W.P.(C) Nos.23508,</i>

4.	No interest under section 50 of CGST Act if there is balance in Electronic credit ledger	22.03.2022	Jharkhand High Court	Ms Narsingh Ispat Limited vs UOI <i>W.P (T) No. 1261 of 2020</i>
5.	Payment of bail amount from ITC allowed	29.04.2022	Delhi High Court	Amit Gupta Vs Directorate General of GST <i>W.P.(CRL) 1267/2021</i>
6.	Payment of Pre deposit from ITC is allowed	16.09.2022	Bombay High Court	Oasis Realty Vs UOI <i>W.P. (ST) No. 23507 of 2022</i>
4. Registration in GST				
1.	Cancellation on false ground	05.08.2021	Kerala High Court	F R Trade Links Vs. State Tax Officer <i>WP(C) No. 28917 of 2020</i>
2.	Registration cannot be cancelled of buyer due to fault of seller	14.10.2021	Orissa High Court	Bright Star Plastic Industries Vs Additional Commissioner of Sales Tax <i>W.P.(C)No.15265 of 2021</i>
3.	HC directs restoration of GST registration on payment of tax, penalty & uploading of returns even if application for restoration of time has expired.	31.01.2022	Madras High Court	Tvl. Suguna Cutpiece Center Vs The Appellate Deputy Commissioner <i>W.P. Nos. 25048, 25877 and 14508 of 2021</i>
4.	Cancellation of registration violates fundamental right	20.06.2022	Uttarakhand High Court	Vinod kumar Vs Commissioner of Uttarakhand <i>Special Appeal No. 123 of 2022</i>
5. GST ITC / VAT Credit				
1.	DVAT: ITC cannot be denied to genuine purchaser if guilty seller do not deposit the tax	26.10.2017	Delhi High Court	Quest Merchandiising India Pvt. Ltd. Vs Government of NCT of Delhi <i>W.P.(c) 6093/2017</i>
2.	HC allows set off of ITC received from Construction against GST Payable on Rent	17.04.2019	Orissa High Court	Safari Retreats Private Limited Vs Chief Commissioner <i>W.P. (C) No. 20463 of 2018</i>
3.	ITC eligible to buyer even if seller have not deposited the tax	24.02.2021	Madras High Court	D.Y. Beathel Enterprises Vs State Tax Officer (Data Cell) <i>W.P.(MD) Nos. 2127 of 2021</i>
4.	HC allows rectification of GSTR 3B	09.03.2021	High Court of Gujarat	M/s Deepak Print Vs UOI <i>R/Special Civil Application No. 18157 of 2019</i>
5.	No Reversal of ITC in respect of loss of inputs during a manufacturing process	24.06.2021	Madras High Court	ARS Steels & Alloy International Pvt. Ltd. Vs State Tax Officer <i>W.P. Nos.2885 of 2020</i>
6.	Rectification of GSTR 3B not allowed for claim of credit as credit was required to be claimed on self assessment basis and not on the basis of GSTR 2A.	28.10.2021	Supreme Court of India	Union of India Vs Bharti Airtel Ltd. & Ors <i>Civil Appeal No. 6520 of 2021</i>
7.	No Denial of ITC if transactions were genuine & supplier registration was cancelled subsequently.	13.12.2021	Calcutta High Court	LGW Industries Limited & Ors. Vs Union of India <i>WPA No. 23512 of 2019</i>

8.	Re-credit/restore ITC where refund amount is returned to the Government treasury.	07.04.2022	Gujarat High Court	I Tech Plast India Pvt. Ltd. Vs State of Gujarat <i>R/Special Civil Application No. 3653 Of 2021</i>
9.	Claim of credit in GSTR 3B in violation of S 16(4) credit not available. Constitutional validity of S 16(4) was not challenged.	20.04.2022	MP High Court	M/S R.K. Modi And Sons Vs UOI <i>W.P. No. 21074 of 2021</i>
10.	GST officers do not have the jurisdiction to determine / adjudicate eligibility of erstwhile CENVAT credit under the GST.	10.11.2022	Ranchi High Court	M/s Usha Martin Limited Vs Additional Commissioner <i>W.P.(T) No. 3055 of 2022</i>
11.	Registration restored for availment of Trans Credit so that tax payer pays GST on his liability	17.11.2022	Bombay High Court	Euro Pratik Sales Corporation Vs UOI <i>W.P. NO.3380 of 2022</i>
12.	The department cannot deny ITC on cancellation of registration of supplier ms gargo traders	12.06.2023	Calcutta High Court	M/s. Gargo Traders Vs The Joint Commissioner, Commercial Taxes <i>WPA 1009 of 2022</i>
13.	Is Section 16(4) constitutionally valid?	18.07.2023	Andhra Pradesh High Court	Thirumalakonda Plywoods Vs The Assistant Commissioner <i>W.P.No.24235 of 2022</i>
14.	ITC cannot be denied if proceedings are not initiated against supplier	02.08.2023	Calcutta High Court	Mr. Ankit Kanodia Vs Mr. Anirban Ray, Ld. Govt. Pleader <i>MAT 1218 OF 2023</i>
6. GST Return				
1.	Amendment to GSTR 1 allowed	18.10.2022	Jharkhand High Court	Mahalaxmi Infra Contract Ltd. Vs GST Council <i>W.P.(T) No. 2478 of 2021</i>
2.	Rectification of GSTR 1 not allowed	31.10.2022	Telangana High Court	Yokahama India vs State of Telangana <i>W.P. No. 15284 of 2022</i>
3.	Rectification of GSTR-1	06.01.2023	Karnataka High Court	M/S Wipro Limited INDIA V/s The Assistant Commissioner of Central Taxes <i>Writ Petition No. 16175 OF 2022(T-RES)</i>
7. ISD				
1.	ITC Transfer From One State To Another Is Not An Inward Supply	17.05.2022	Orissa High Court	JSW Steel Vs UOI <i>W.P. (C) No. 10052 of 2022</i>
9. GST E-Way Bill / Section 129 / Section 130				
1.	Analysing Rule 140 of CGST Rules for confiscation of goods / release of goods detained u/s 129 of CGST Act	08.11.2018	Kerala High Court	Noushad Allakkat vs State Tax Officer <i>WA.No. 2070 of 2018</i>
2.	Release of goods on payment of redemption fine Section 130 of CGST Act	25.08.2021	Karnataka High Court	Shel Singh vs CTO <i>Writ Petition No.14645 OF 2021(T-RES)</i>
3.	Goods in transit cannot be confiscated for Under-valuation & Wrong Route	06.01.2022	Gujarat high Court	Karnataka Traders Vs State of Gujarat <i>R/Special Civil Application No. 19549 of 2021</i>

4.	No penalty for non-transportation of goods within validity of E way bill due to agitation & blocked traffic.	12.01.2022	Supreme Court of India	Satyam Shivam Papers Pvt. Limited Vs Assistant Commissioner (ST) & Ors. <i>Petition(s) for Special Leave to Appeal (C) No(s). 21132/2021</i>
5.	Mismatch of quantity during roadside checking, cannot be termed as section 129 contravention	14.03.2022	Punjab and Haryana High Court	Raghav Metals Vs State of Haryana and others <i>CWP No. 25057 of 2021</i>
6.	Address on invoice not matches due to post facto amendment in Registration, Quashes Penalty	04.04.2022	Madras High Court	Algae Labs Pvt. Ltd Vs State Tax Officer <i>Writ Petition (MD) No. 4958 of 2022</i>
7.	No tax No penalty	04.07.2022	Telangana High Court	Symed Labs Limited Vs. Joint Commissioner of ST <i>W.P.No. 26929 of 2022</i>
8.	Proper officer cannot transform the detention proceedings into a confiscatory proceeding	16.08.2022	Karnataka High Court	Rajeev Traders Vs UOI <i>Writ Petition No. 100849 of 2022 (T-RES)</i>
10. GST SCN and jurisdiction of proper officers / Income Tax / Customs				
1.	Delegation of powers of officers u/s 167 of CGST Act whether legal?	04.02.2020	Gujarat High Court	Nathalal Maganlal Chauhan vs State of Gujarat <i>R/Special Civil Application No.. 513 of 2020</i>
2.	Proceeding Vs inquiry u/s 6(2)(b)	02.12.2020	Allahabad High Court	G.K.Trading Company Vs UOI <i>Writ tax No. – 666 of 2020</i>
3.	Quashes attachment of property u/s 83 for lack of jurisdiction since powers were not delegated by Commissioner u/s 5(3) of MGST Act, 2017	31.03.2021	High Court of Bombay	Praful Nanji Satra vs State of Maharashtra <i>Writ Petition (L) No. 5182 of 2020</i>
4.	Quashes vague and without jurisdiction SCN	08.10.2021	Jharkhand High Court	Nkas Services Private Limited Vs State of Jharkhand <i>W.P.(T) No. 2444 of 2021</i>
5.	Where order in GST DRC-07 as visible in GSTN Portal did not contain reasons, same was wholly defective and, hence was to be remitted back for fresh adjudication	10.11.2021	Allahabad High Court	Dauhi Ispat Pvt. Ltd. V/s State of UP and Others <i>Writ Tax No. – 672 of 2021</i>
6.	Delegation of authority without express written power in the notification / circular	15.11.2021	Allahabad High Court	M/s Maa Geeta Traders deputy Commissioner State Tax <i>Writ tax no. 760 of 2021</i>
7.	Bogus billing allegation in SCN should be supported by some documentary evidences	06.01.2022	Gujarat High Court	Vageesh Umesh Jaiswal Vs State of Gujarat <i>R/Special Civil Application No. 19176 of 2021</i>
8.	HC explains Inherent lack of jurisdiction or contributory error of jurisdiction-Section 160(2) of CGST Act	09.02.2022	Allahabad High Court	Ajay Verma Vs UOI <i>Writ tax No. – 1169 of 2021</i>
9.	Rule 142 not followed - SCN quashed	02.03.2022	Jharkhand High Court	Ms Bla Projects Pvt limited vs State of Jharkhand <i>W.P. (T) No. 396 of 2021</i>

10.	<u>Income Tax</u> Date of issue of digital notice	10.03.2022	Allahabad High Court	Daujee Abhushan Bhandar Pvt. Ltd. vs UOI <i>Writ Tax No. 78 of 2022</i>
11.	SCN gives no details as to the date and time for a personal hearing - Quashed	07.04.2022	Delhi High Court	State Tax Officer Vs Y. Balakrishnan <i>W.P.(C) 1212/2022 & CM No.3560/2022</i>
12.	Proper officer has no jurisdiction to issue SCN whose taxable turnover is less than threshold limit	26.05.2022	Delhi High Court	Kishore Kumar Arora Vs UOI <i>W.P.(C) 10343/2021</i>
13.	Inspection report cannot be deemed to be SCN if tax payer do not appear before the officer.	11.07.2022	Jharkhand High Court	M/s Shyam Hardware Store Vs State of Jharkhand <i>W.P. (T) No. 1117of 2021</i>
14.	Section 83 was not mentioned in notice therefore attachment of bank account was quashed	15.07.2022	Delhi High Court	Zuric Traders vs Commissioner of Customs <i>W.P.(C) No. 13911/2021</i>
15.	Income tax assessment – Rs. 50 Lakhs cost awarded.	11.08.2022	Allahabad High Court	S R Cold Storage vs UOI <i>Writ Tax No. 723 of 2022</i>
16.	The statutory period to reply SCN cannot be arbitrarily reduced to 7 days by assessing officer	20.09.2022	Bombay High Court	Sheetal Dilip Jain Vs State of Maharashtra Ors <i>Writ Pettion (I) No.17591 of 2022</i>
17.	Restrains Parallel GST Proceedings By 3 Wings of Same Department For Same Tax Period	30.09.2022	Calcutta High Court	M/s. R. P. Buildcon Pvt. Ltd. Vs The Superintendent <i>M.A.T. No.1595 of 2022</i>
18.	Notice to taxpayer should be clear enough so that taxpayer can read mind of the issuing authority	16.11.2022	High Court of Andhra Pradesh	M/s S.A. Traders Vs. The GST Officer <i>W.P. No. 36673 of 2022</i>
19.	Action initiated by State authorities under Section 67 against SEZ unit is not ultra vires to SEZ Act read with provisions of CGST/SGST Act, 2017	06.06.2023	Gujarat High Court	RHC Global Exports Private Limited Vs UOI <i>R/Special Civil Application Nos. 5978 to 5980 of 2023</i>
20.	Demand order passed without considering the reply to the SCN is not sustainable	15.02.2023	Madras High Court	M/s. Engineering Aids Vs State Tax Officer (Circle) <i>W.P. No.28124 of 2022</i>
21.	30 days notice should be granted to file reply of SCN under Section 73	20.09.2022	B o m b a y High Court	Sheetal Dilip Jain Vs The State of Maharashtra <i>Writ Petition (L) No.17591 Of 2022</i>
11. Assessment				
1.	The period of 30 days cannot be extended as given in Section 62 Best Judgement Assessment	23.09.2019	Kerala High Court	Ms Bridge Hygiene Services Private Limited Vs The State Tax Officer <i>WP(C).No.25066 of 2019(G)</i>
12. Inspection, search, seizure				
1.	Conclude investigation in 3 months	29.06.2020	High Court Delhi	Watermelon Management Services Pvt. Ltd vs The Commissioner Central Tax, <i>W.P. (C) 3618/2020</i>

2.	Parallel proceedings of Audit and Investigation allowed	14.08.2020	High Court Kerala	Suresh Kumar P.P Vs Deputy Director <i>W.A. No. 943 of 2020</i>
3.	Cash can be seized u/s 67	26.08.2020	High Court M a d h y a Pradesh	Kanishka Matta Vs UOI <i>Writ Petition No.8204/2020</i>
4.	GST Officials Cannot Use Physical Violence	06.11.2020	Telangana High Court	Agarwal Foundries Private Limited Rama Towers Vs UOI <i>WP 28268/2019</i>
5.	Copy paste reasons to believe not allowed	20.07.2021	High Court Delhi	M/s R.J. Trading Co.vs Commissioner <i>W.P.(c) 4847/2021</i>
6.	Swiggy Case: GST recovered at the time of search/inspection not treated as voluntary payment of tax and therefore entitled to refund	03.03.2022	Karna-taka High Court	Union of India Vs Bundl Technologies Pvt Limited <i>W.A. No. 1274 of 2021</i>
13. Summons - GST and Pre-GST				
1.	<u>Excise</u> : New document cannot be asked to be created	01.09.2016	Delhi High Court	eBiz Com pvt. Ltd. vs UOI <i>W.P. (C) No. 756/2016</i>
2.	Multiple summons issued by different authorities valid u/s 6(2)(b) on different subject matter	12.02.2021	Punjab & Haryana High Court	Kaushal Kumar Mishra Vs Additional Director General Ludhiana Zonal Unit <i>CWP-21387/2020 (O&M)</i>
3.	Power to Summon persons to give Evidence and Produce Documents is a Statutory function and is no threat to arrest	16.02.2021	Bombay High Court	JSK Marketing Limited Vs UOI <i>WP (L) No.5000 of 2020</i>
4.	The PO who conducts inquiry that PO can only issue summon	09.03.2021	Supreme Court of India	Canon India Pvt. Ltd. vs Commissioner of Customs <i>Civil Appeal No. 1827/2018</i>
5.	State issued summons and Centre initiated proceedings - not valid u/s 6(2)(b).	24.03.2021	Calcutta High Court	Raj Metal Industries Anr. Vs UOI Ors. <i>W.P.A 1629/2021</i>
6.	Summon not issued in prescribed format	28.04.2021	Delhi High Court	Koenig Solutions Pvt. Ltd. Vs UOI Ors. <i>W.P. (C) 5040/2021</i>
7.	DGGI officers empowered to issue summons under GST	24.06.2021	Gujarat High Court	Yasho Industries Limited vs Union of India <i>R/Special civil application no. 7388 of 2021</i>
8.	Summons-Authorised representative cannot appear	08.04.2022	Rajasthan High Court	Suresh Balkrishna Jajra vs UOI <i>D. B. Civil Writ Petition No. 4741/2022</i>
14. Arrest and Bail				
1.	Bail granted since chargesheet not filed in time.	13.09.2019	High Court Gujarat	Sandeep Maganbhai Chaniyara Vs Commissioner <i>R/Criminal Misc. Application No. 16087 of 2019</i>
2.	Can power to arrest be delegated - S 69 and S 5(3)	16.12.2019	Gujarat High Court	Deep Suresh Gadhecha vs State of Gujarat <i>R/Special Criminal Application No. 10436 of 2019</i>

3.	Bail Granted to Accused Involved in GST Scam of Rs 14.33 Cr	20.01.2022	High Court Himachal	Prateek Garg Vs Intelligence Officer Himachal <i>Criminal Miscellaneous Petition (Main) No 119 of 2022</i>
4.	Taxpayer cannot be detained for indefinite period for alleged tax evasion where investigation is pending	01.02.2022	Supreme Court of India	Paresh Nathalal Chauhan Vs State of Gujarat <i>Criminal Appeal Nos. 164-165/2022</i>
5.	Bail application	21.05.2022	ACJM/ Gurugram	CGST, Gurugram. Vs. Sunil Mehlawat. <i>CNR No. HRGR03-042013-2022</i>
6.	Arrest of advocate just because he is a neighbor and who is not at all involved in ITC fraud	15.11.2022	High Court of Punjab & Haryana	Akhil Krishan Maggu & Anr v/s Directorate General of GST Intelligence & Ors. <i>C.W.P. No. 24195 of 2019 (O&M)</i>
7.	First imprisonment case in section 132 of GST Law	17.12.2022	CJM / Haridwar	ACIT vs Surendra Singh <i>CNR No.: UKHA-02-010083-2022</i>
8.	Bail application	23.12.2022	High Court of Bombay	Dinesh Bhabootmal Salecha V/s The Directorate of Revenue Intelligence <i>Bail Application No. 21291 of 2022</i>
9.	Denial of bail must be the exception rather than the rule	25.05.2023	Punjab & Haryana High Court	Amrinder Singh Vs State of Punjab <i>CRM-M-38409-2021</i>
15. GST Audit				
1.	Draft Audit Report and Final Report cannot be issued on the Same Date	09.11.2022	Orissa High Court	Simon Carves India Ltd. vs Commissioner Of Income-Tax <i>W.P.(C) No. 26443 of 2022</i>
16. Demand u/s 73/74				
1.	No Recovery without notice	26.09.2018	Telangan High Court	D. RamaKotiah Co. Vs State of Andhra Pradesh <i>WP No.33777 of 2018</i>
2.	Proceedings under Section 70 is independent of Section 73	26.06.2019	Madhya Pradesh High Court	Om Shiv Associates Vs Union of India <i>W.P. No. 11822/2019</i>
3.	No Levy of Interest Without Show Cause Notice	03.03.2020	Karnataka High Court	LC Infra Projects Vs Union of India <i>Writ Appeal No.188 of 2020 (T-RES)</i>
4.	Service of DRC 01 on E Mail ID not valid as per Rule 142(1)	19.11.2020	Madhya Pradesh High Court	Akash Garg Vs State of M.P. <i>W.P. No. 16117/2020</i>
5.	SCN liable to be quashed since served on wrong E-mail ID	17.12.2020	Allahabad High Court	Ratan Industries Limited Vs State of U.P. <i>Writ Tax No. – 660 of 2020</i>

6.	If option to pay tax has been opted under Section 74 then interest and penalty also has to be paid under Section 74 to quash the proceedings	30.12.2020	Kerala High Court	Muhammed Kochudiyil Isha-beevi Alias Isha Shaefi Vs State Tax Officer Intelligence <i>W.P.(C) No. 20468 of 2020(G)</i>
7.	No reasonable opportunity of being heard given	04.08.2021	Patna High Court	National Enterprises Vs Union of India <i>CWJC No.12233 of 2021</i>
8.	Service of notice and order on same day liable to be quashed since no breathing time allowed for reply	24.09.2021	Madras High Court	Balaji Traders Vs State Tax Officer <i>W.P.(MD)No.6588 of 2021</i>
9.	No penalty u/s 74 for wrong availment of ITC but penalty can be imposed for wrong utilisation of ITC	08.12.2021	High Court Madras	Aathi Hotel Vs Assistant Commissioner ST FAC <i>W.P.No.3474 of 2021</i>
10.	DRC 07 order issued without issuance of DRC 01 and therefore quashed	10.02.2022	High Court Madras	VRS Traders Vs Assistant commissioner State Tax <i>Writ Petition Nos.1607, 1609 and 1613 of 2022</i>
11.	Intimation given in Form DRC-01 not valid, it should be in DRC-01A	07.04.2022	Gujrat High Court	Agrometal vendibles private limited vs state of Gujarat <i>R/SPECIAL CIVIL APPLI-CATION NO. 6919 of 2022</i>
12.	Issuance of DRC 01 not sufficient ground for passing of an order	18.04.2022	Jharkhand High Court	Godavari Commodities Ltd. Vs The State of Jharkhand <i>W.P.(T) No. 3908 of 2020</i>
13.	Electronic filing of the reply of SCN is not mandatory in Form GST DRC 06 also objections not considered therefore denial of natural justice.	22.08.2022	Madras High court	Asia (Chennai) Engineering Company Pvt. Ltd Vs The Assistant Commissioner <i>W.P.(MD).Nos.13851 of 2022</i>
14.	It is mandatory to Issue ASMT-10 before Issuance of DRC-01 and DRC 07 and their proper service	27.09.2022	Madras High court	Vadivel pyrotech Pvt. Ltd. Vs The Assistant Commissioner State <i>W.P.(MD)No.22642 of 2022</i>
15.	E-way bill is only a document supporting the transport and assessment cannot be based on the E-way bill.	27.04.2023	Patna High Court	M.S. Cycle Shop Vs The State of Bihar <i>Civil Writ Jurisdiction Case No.4325 of 2023</i>

17. Recovery u/s 79

1.	To keep industry alive EMI is permitted even if defaulted	28.03.2019	Telanga-na High Court	M/S. Impact Metals Ltd., vs State Of Telangana <i>W.P. No.6323 OF 2019</i>
2.	Declaration in GSTR 1 is admitted liability and therefore no requirement of issuance of SCN u/s 73.	17.10.2019	High Court of M.P	Kabeer Reality vs Union of India <i>Writ Petition No.15645/2019</i>
3.	Direct recovery u/s 79 possible only if tax or interest liability is admitted	08.11.2019	Madras High Court	V.N. Mehta Company Vs As-sistant Commissioner <i>W.P.No. 26187 of 2019</i>
4.	Payment of interest is not mandatory due to delay filing of GSTR 3B return. Adjudication either u/s 73 / 74 is must. Section 75(12) can be pressed only if liability of interest is admitted	21.04.2020	Jharkhand High Court	Mahadeo Construction Co. Vs U.O.I <i>W.P.(T) No. 3517 of 2019</i>

5.	Direct recovery under section 79 without proper SCN not allowed	04.03.2022	Madras High Court	M/s.MNS Enterprises vs DGGI <i>W.P.No. 20067 of 2021</i>
6.	Order directing GAIL to pay sum which is not due and payable is unsustainable	29.03.2023	Delhi High Court	Gail (India) Limited vs Directorate General Of GST Intelligence <i>W.P.(C) 5056/2018 & CM No.54995/2022</i>
18. Attachment u/s 83				
1.	Bank A/c of another Taxable Person cannot be provisionally attached merely for summons issued to him	30.01.2020	Bombay High Court	Gehna Trading LLP Vs Union of India <i>WP No. 167 of 2020</i>
2.	Sub-contractor's escrow account lifted as sub-contractor is not a taxable person	09.02.2021	Bombay High Court	Abhi Engineering Corporation Pvt. Ltd. V/s Union of India <i>Writ Petition (L) No.5842 of 2020</i>
3.	Power of provisional attachment under GST is draconian in nature. Strict procedure to be followed.	20.04.2021	Supreme Court of India	Radha Krishan Industries Vs State of Himachal Pradesh <i>Civil Appeal No. 1155 of 2021</i>
4.	Attachement is possible only of taxable person	12.05.2021	Delhi High Court	Roshni Sana Jaiswal Vs Commissioner Of Central Taxes <i>W.P.(C) 2348/2021</i>
5.	Provisional Attachment Not To Hamper Normal Business Activities	17.03.2022	Gujrat High Court	Arya Metacast Pvt. Ltd. Vs State of Gujarat <i>R/SPECIAL CIVIL APPLICATION NO. 2787 of 2022</i>
19. Blockage of ITC as per Rule 86A				
1.	HC removes blockage of ITC – asks department to give proper hearing post blockage	23.02.2022	High Court of Gujarat	M/s New Nalbandh Traders Vs State of Gujarat <i>R/Special Civil Application No. 17202 of 2021</i>
2.	Blocking of ITC in Rule 86A for non payment in 180 days is without authority of law	05.12.2022	High Court of Delhi	Sunny Jain V/s UOI <i>W.P.(C) 6444/2022, CM Nos. 19502/2022 & 33763/2022</i>
20. Appeals and Revisions				
1.	Payment of pre deposit from ITC not allowed.	07.10.2021	Orissa High Court	Jyoti Construction Vs Deputy Commissioner <i>W.P.(C) Nos.23508,</i>
2.	Appeal can be filed only if summary order is uploaded on the portal	20.07.2022	Kerala High Court	<i>Hindustan Steel And Cement Vs Assistant State Tax Officer WP(C) NO. 17454 OF 2022</i> <i>B M Steel Agencies Vs Assistant State Tax Officer WP(C) NO. 17463 OF 2022</i>
3.	It was also held that an unsigned order is not an order in the eyes of law. Rule 26(3)	21.09.2022	High Court of Bombay	Ramani Suchit Malushte V/s UOI <i>Writ Petition No. 9331 of 2022</i>

4.	Payment of Pre deposit from ITC is allowed	16.09.2022	Bombay High Court	Oasis Realty Vs UOI <i>W.P. (ST) No. 23507 of 2022</i>
5.	Pre Deposit – adjustment with ITC allowed	23.09.2022	Allahabad High Court	Tulsi Ram And Company Vs Commissioner <i>Writ Tax No. 1237 of 2022</i>
21. Penalty u/s 122 to 129				
1.	Section 129 and Section 130 analysis before amendment Release and detention of goods	23.12.2019	Gujarat High Court	Synergy Fertichem Pvt. Ltd. vs State of Gujarat <i>R/Special Civil Application No. 4730 of 2019</i>
2.	The essence of all the judgements is that mens rea is an essential ingredient of an offence but it is the legislative prerogative to exclude mens rea expressly or by necessary implication.	17.12.2020	Allahabad High Court	Metenere Ltd vs UOI <i>WRIT TAX No. – 360 of 2020</i>
3.	Penalty in S 122 for not carrying valid E-Way Bill	17.01.2021	High Court of Tripura	Gopikrishna Infrastructure Pvt. Ltd. Vs State of Tripura <i>WP(C) 317 of 2020</i>
4.	Discrepancies in accounts does not mean concealment	17.03.2021	Allahabad High Court	Jai Maa Jwalamukhi Iron Scrap Supplier Vs State of U.P. <i>WRIT TAX No. – 614 of 2020</i>
5.	Whether mens rea is essential for levy of penalty?	17.04.2023	Supreme Court	State of Gujarat and Anr Vs M/s Saw Pipes Ltd <i>CIVIL APPEAL NO. 3481 OF 2022</i>
24. GST Tribunal				
1.	Formation of GST Tribunal	27.11.2020	Supreme Court of India	Madras Bar Association Vs UOI <i>Writ Petition (C) No.804 of 2020</i>
2.	Acceptance of writ even after delay of 3 years	10.11.2022	High Court West Bengal	Green fizz Vs State of West Bengal <i>M.A.T No. 1364 of 202</i>