

Legal Update

LD/70/105 [ITAT Ahmedabad: ITA No: 2115/Ahd/2018] The Asst. Commissioner of Income Tax Vs. M/s Shalibhadra Developers; 15/11/2021

Assessee-Firm had transferred a land to three companies and claimed the amount as 'Capital gains' whereas Revenue held the same as being under the head 'Business Income', on the grounds that various activities undertaken by the assessee beginning from acquisition of land to its conversion into non-agricultural land and division thereof was the result of systematic and concerted activity in the league of business actions; ITAT held that the assessee engaged in business as developer of land would not ipso facto vitiate the nature and character of land holdings declared in a particular manner; Income from sale of land has the trappings of investment activity of capital nature.



GST

LD/70/106 [2022-TIOL-54-HC-Ahm-GST] Manish Scrap Traders Vs Principal Commissioner; 12/01/2022

In respect of recovery proceedings initiated under section 83 of the CGST Act 2017, the attachment cannot be extended to the cash credit bank accounts of the taxpayer as there is no debtor-creditor relationship between the bank and the borrower.

LD/70/107 [2022-TIOL-43-HC-Ahm-GST] M/S Karnataka Traders Vs State of Gujarat; 06/01/2022

When the consignment was accompanied by a proper invoice and E-way bill and on inspection, the goods were found to match the description as per the said documents, the confiscation proceedings were quashed holding that unless there is concrete evidence that the change in route was with the intention of evading tax there cannot be a presumption that every change in route was meant for tax evasion. The Court further reiterated a settled legal position that undervaluation cannot be a ground for seizure of goods in transit by the inspecting authority.

LD/70/108 [2022-TIOL-23-HC-AII-GST] Ranjana Singh Vs Commissioner of State Tax and 2 Others; 09/12/2021

Where the registration application is accompanied with requisite details/documents as per the provisions of the law and the additional clarifications sought by the authorities are also provided, the authorities cannot reject the registration application. Further, where the relevant facts are mentioned not only in reply to show cause notice but also in grounds of appeal, the appellate authority is duty-bound to look into the same and pass the order in accordance with the law. Where the registration application was rejected and such rejection was confirmed by the Appellate Authority without assigning any reason as to defect in the submission of house tax receipt instead of electricity bill, the court viewed the entire episode as the harassment of taxpayer by the officers and imposed a cost on the department while allowing the Writ.

LD/70/109 [2022-TIOL-15-HC-Kerala-GST] Jose Joseph Vs Assistant Commissioner of Central Tax and Central Excise Alappuzha, Additional Commissioner (Appeals), Kochi; 17/12/2021

When there is no provision for filing an appeal manually and the mode of appeal prescribed by the rules is only the electronic mode, the time limit of three months can start only when the assessee had the opportunity to file the appeal in the electronic mode.

LD/70/110 [2022-TIOL-03-HC-Sikkim-GST] Glenmark Pharmaceuticals Ltd Vs Union of India and Ors; 24/11/2021

When the assessee applied for registration manually and filed applications under budgetary support scheme manually relying upon CBIC communication after the grant of UID, the benefit of the scheme should not be denied to the assessee merely on account of the fact that the claim is in respect of the period prior to grant of UID, especially when the manual application for registration was never processed by the authorities in accordance with the said CBIC communication.