

Highlights

1. GST: Supply or not - interest/penalty collected for delay in payment of monthly subscription by the members - The additional amount being charged in delay of payment by whatever name called should be classified as principal supply and the classification of the same cannot differ from the original supply. Hence the additional amount charged on delayed payment shall be taxed as per original supply i.e. supply of financial and related services.
2. GST: Demand of GST - Legality and Validity of notice of intimation under Section 74(5) of GST - It is just an intimation. It is up to the writ applicant whether to pay attention to such intimation or not. If the writ applicant deems fit to ignore it, the same may entail the consequence of further show cause notice under Section 74(1) of the Act, 2017
3. GST: Period of limitation for transitional credit - GST TRANS-1 - In this case, the peremptory word "shall" is used. The relevant rule deals with the time limit for availing Transitional ITC by carrying it forward from the credit balance under tax legislations which have been repealed and replaced by the CGST Act. Thus, the object and purpose of Section 140 clearly warrants the necessity to be finite. ITC has been held to be a concession and not a vested right. - On weighing all the relevant factors, which may be not be conclusive in isolation, in the balance, we conclude that the time limit is mandatory and not directory.
4. GST: Profiteering - purchase of a flat - allegation that the benefit of reduction in the rate of tax not passed on - contravention of section 171 of CGST Act - The State Commissioner GST shall ensure that the above benefit is passed on to the eligible buyers and a report is submitted to this Authority through the DGAP within a period of 4 months from the date of this order.
5. Income Tax: Reopening of assessment u/s 147 - notice in the name of dead person - the applicability of Section 292BB of the Act, 1961 has been held to be attracted to an assessee and not to legal representatives - Once the nature of the proceedings is made known and understood by the assessee, he should not be allowed to take advantage of certain procedural defects. That was the purpose behind the enactment of Section 292BB. It cannot be invoked in cases where the very initiation of proceedings is against a dead person.
6. Income Tax: TCS u/s 206C(1) - Purchase by the assessee as scarp subjected to TCS - In view of the undisputed fact that what was purchased by the assessee is scarp subjected to TCS then the resale of the same material is also be treated as scrap and there is no scope of re-classification of the these goods at the time of sale
7. Income Tax: Slump sale of windmills - capital gains as a slump sale u/s 50B (2) - Wind mills constitute separate undertaking and the Ld.CIT(A) has rightly directed the AO to compute the capital gains as a slump sale u/s 50B (2) and no interference is called for.
8. Income Tax: TP Adjustment - Adjustment on account of provision of loan to AE's - DRP adopted the interest rate at domestic cost of borrowing + 3% markup - rate of interest was to be determined on basis of rate prevailing in Country where loan had been consumed.

9. Income Tax: Deemed dividend u/s 2(22)(e) - Protective assessment - the addition in the hands of the appellants on protective basis by the A O clearly amounts to a double addition and therefore, is unfair and unreasonable, which deserves to be deleted.
10. Income Tax: Validity of the assessment order framed u/s 153A read with section 143(3) - Assessment has been framed by the AO u/s 143(3), without obtaining the valid approval from the joint Commissioner of income tax. Accordingly, such assessment is not valid under the provisions of law.
11. Customs: Effective date of notification - the notification would come into effect from the date and time when it was electronically printed in the gazette and mere uploading on the website would have no significance. - The respondents are directed to refund the entire excess amount paid by the petitioner as enhanced duty under protest, including the IGST amount, within a period of two months from today.
12. Customs: Evasion of duty - fraudulent availment of advance authorisation scheme - the appellant requested for provisional release for re-export of the goods. In that case, a lenient view can be taken. Needless to say that the appellant shall clear the goods on payment of duty as assessed by the Customs
13. Customs: Continuation of Anti-Dumping Duty - imports of "Grinding Media Balls" - Once the Designated Authority had exercised its discretion in recording findings on the basis of the facts available to it and there is no perversity in the exercise of this discretion, it is not possible to accept the submission of the Domestic Industry that the foreign exporter should have been treated as non-cooperative and residual duty under the Customs Notification issued by the Central Government should have been levied on the foreign exporter.
14. Companies Law: Permission of Company to revise Board's Report - Corporate Social Responsibility (CSR) report - we are convinced with the reasons furnished by Petitioner to seek the relief as sought for. Therefore, we are inclined allow the application as sought for in the interest of justice, and on the principle of ease of doing business, however, without prejudice to the right(s) of Registrar of Companies to initiate appropriate proceedings, if the Company violate any provisions of Companies Act, 2013 and the Rules made thereunder.
15. Indian Laws: Condonation of delay in service of SCN - Time Limitation - Dishonor of Cheque - insufficient funds - If the complaint is to be dismissed on technical ground i.e. on delay of about 13 days, that will amount to preventing the complainant at the threshold level, without affording him an opportunity to put forth his contention on merits. Even if delay of the said 13 days is to be condoned, no prejudice will be caused to the accused and he can very well contest the matter on merits.
16. Insolvency and Bankruptcy: Liquidation process - right of the secured creditor - Respondent can realise a Security Interest as per provision Section 13(9) of the SARFAESI Act. Since the Respondent does not have a requisite 60% value in Secured Interest, therefore, the Respondent does not have right to realize its security interest, because it would be detrimental to the Liquidation process and the interest of the remaining ten Secured Creditors.
17. Insolvency and Bankruptcy: CIRP process - police has refused to act on the FIR - Since any action of the police will have to be based on investigation on the subject matter of the transaction, which is directly within the purview of the CIRP, it is to be deemed that the

police cannot take further steps in the matter unless and until the CIRP culminates, in a resolution or otherwise.

18. Central Excise: Validity of declarations filed under Sabka Viswas (Legacy Dispute Resolution) Scheme, 2019 - Scheme was held to be not maintainable on the premise that the case involves the confiscation of goods and imposition of redemption fine and Section 129 of the Finance (No.2) Act, 2019 does not grant any relief from the confiscation or redemption fine - Matter restored back for fresh decision after giving opportunity for personal hearing.

19. Central Excise: CENVAT Credit - input services - Renting of Immovable Property Service - The services used in relation to setting up of a plant are neither specifically included nor specifically excluded during the relevant period. That takes us to the main part of the definition which, with respect to manufacturer allows CENVAT credit of services used in or in relation to manufacture whether directly or indirectly. - Credit allowed.