

MONTHLY NEWSLETTER

GST TRACKER

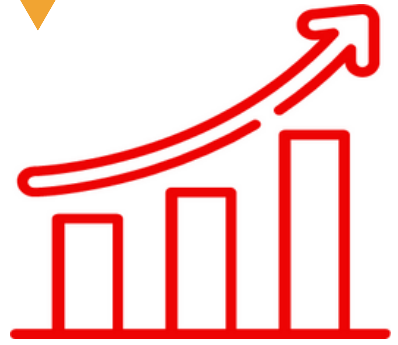
ISSUE: AUGUST 2023

Published by www.gstatoneplace.com

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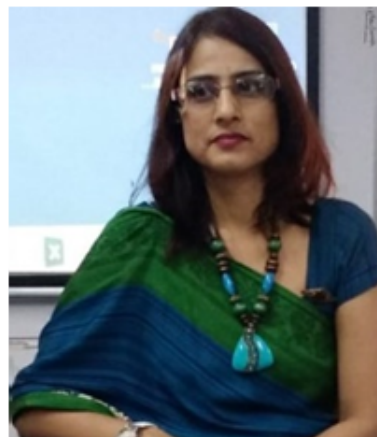
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Case Law Corner



Compiled by CS Payal Kataria

Hon'ble HC ordered refund of E Way Bill penalty to bonafide Petitioner

Particulars	Details
Name of Petitioner	M/s. Perfect Enterprise
Name of Respondent	State of West Bengal & Ors.
Authority	Calcutta High Court
Date of Judgement	15.06.2023
Appeal No.	WPA 532 of 2023

Brief facts of the case

E-way bill was valid up to May 2, 2022. The said vehicle reached at destination city on May 2, 2022 before the expiry of e-way bill. The goods were to be unloaded at the stockyard and accordingly the petitioner had directed the driver of the vehicle to take the vehicle said location. By the time, the driver reached the stockyard, it was closed and the next working day i.e May 3, 2022, the stockyard was also closed because of Ed-UI-Fitr as a result, the vehicle could not enter the stockyard for unloading of the goods and the driver had parked the vehicle in the vicinity of the stockyard. On May 4, 2022 at 3:20 AM, the vehicle was intercepted by State Tax Officers. In the inspection it was found expiry of e-way bill on May 2, 2022. the Petitioner paid the Penalty under Protest and the goods were released. The appeal preferred by the petitioner was rejected by Appellate Authority .

Contention of the Petitioner

The petitioner submits that there is no lack of bona fide on the part of the petitioner to state that there was wilful misconduct committed by the petitioner while transporting the goods. He further submits that there is every possibility that even if an application was made for extension of the e-way bill within the time permitted, May 3, 2022 being national holiday on account of Ed-UI-Fitr, the e-way bill, in all probabilities, would not have been revalidated within eight hours period.

Contention of the Department

Respondent authorities opposes the submission made by the Counsel for the petitioner and submits that admittedly when the vehicle was intercepted, e-way bill was not valid and already expired and the petitioner had not taken any steps for revalidation of the e-way bill.

And further submitted that the authorities have rightly imposed penalty and the petitioner had paid the penalty and the goods were released and thus there is nothing remains in the present writ application.

Findings & Decision of the Court

Considering the peculiar facts of the case, the Court finds that there is no lack of bona fide on the part of the petitioner to state that there was wilful misconduct committed by the petitioner while transporting the goods.

Order passed by the Adjudicating Authority and Appellate Authority are set aside and quashed.

The petitioner paid the penalty, is entitled to apply for refund, which shall be considered by the appropriate authority within a period of 15 days from the date on which such application is made and refund be effected, if there are no other legal impediment.

GSTN Updates & Notifications Corner

GSTN Updates July 2023

Date	Subject
07.07.2023	Important Update: Geocoding Functionality Now Live for All States and Union Territories
24.07.2023	Advisory: e-Invoice Exemption Declaration Functionality Now Available

Source: www.gst.gov.in

Notifications/Circulars/Orders issued in the month of July 2023

Central Tax Notifications July 2023

No.	Date	Subject
18/2023	17.07.2023	Seeks to extend the due date for furnishing FORM GSTR-1 for April, May and June, 2023 for registered persons whose principal place of business is in the State of Manipur
19/2023	17.07.2023	Seeks to extend the due date for furnishing FORM GSTR-3B for April, May and June, 2023 for registered persons whose principal place of business is in the State of Manipur
20/2023	17.07.2023	Seeks to extend the due date for furnishing FORM GSTR-3B for quarter ending June, 2023 for registered persons whose principal place of business is in the State of Manipur
21/2023	17.07.2023	Seeks to extend the due date for furnishing FORM GSTR-7 for April, May and June, 2023 for registered persons whose principal place of business is in the State of Manipur
22/2023	17.07.2023	Seeks to extend amnesty for GSTR-4 non-filers
23/2023	17.07.2023	Seeks to extend time limit for application for revocation of cancellation of registration
24/2023	17.07.2023	Seeks to extend amnesty scheme for deemed withdrawal of assessment orders issued under Section 62

Central Tax Notifications July 2023

No.	Date	Subject
25/2023	17.07.2023	Seeks to extend amnesty for GSTR-9 non-filers
26/2023	17.07.2023	Seeks to extend amnesty for GSTR-10 non-filers
27/2023	31.07.2023	Seeks to notify the provisions of section 123 of the Finance Act, 2021 (13 of 2021).
28/2023	31.07.2023	Seeks to notify the provisions of sections 137 to 162 of the Finance Act, 2023 (8 of 2023).
29/2023	31.07.2023	Seeks to notify special procedure to be followed by a registered person pursuant to the directions of the Hon'ble Supreme Court in the case of Union of India v/s Filco Trade Centre Pvt. Ltd., SLP(C) No.32709-32710/2018.
30/2023	31.07.2023	Seeks to notify special procedure to be followed by a registered person engaged in manufacturing of certain goods.
31/2023	31.07.2023	Seeks to amend Notification No. 27/2022 dated 26.12.2022.
32/2023	31.07.2023	Seeks to exempt the registered person whose aggregate turnover in the financial year 2022-23 is up to two crore rupees, from filing annual return for the said financial year.

Central Tax Notifications July 2023

No.	Date	Subject
33/2023	31.07.2023	Seeks to notify "Account Aggregator" as the systems with which information may be shared by the common portal under section 158A of the CGST Act, 2017.
34/2023	31.07.2023	Seeks to waive the requirement of mandatory registration under section 24(ix) of CGST Act for person supplying goods through ECOs, subject to certain conditions.
35/2023	31.07.2023	Seeks to appoint common adjudicating authority in respect of show cause notices in favour of against M/s BSH Household Appliances Manufacturing Pvt Ltd.

Central Tax (Rate) Notification July 2023

No.	Date	Subject
06/2023	26.07.2023	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 50th meeting held on 11.07.2023.
07/2023	26.07.2023	Seeks to amend notification No. 12/2017- Central Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 50th meeting held on 11.07.2023.

Central Tax (Rate) Notification July 2023

No.	Date	Subject
06/2023	26.07.2023	Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 50th meeting held on 11.07.2023.
07/2023	26.07.2023	Seeks to amend notification No. 12/2017- Central Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 50th meeting held on 11.07.2023.
08/2023	26.07.2023	Seeks to amend notification No. 13/2017- Central Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 50th meeting held on 11.07.2023.
09/2023	26.07.2023	Seeks to amend No. 01/2017- Central Tax (Rate) to implement the decisions of 50th GST Council.
10/2023	26.07.2023	Seeks to amend No. 26/2018- Central Tax (Rate) to implement the decisions of 50th GST Council.
10/2023 Corrigendum	31.07.2023	Corrigendum to notification no. 10/2023 Central Tax (Rate)

Integrated Tax Notification July 2023

No.	Date	Subject
01/2023	31.07.2023	Seeks to notify all goods or services which may be exported on payment of integrated tax and on which the supplier of such goods or services may claim the refund of tax so paid.

Integrated Tax (Rate) Notification July 2023

No.	Date	Subject
06/2023	26.07.2023	Seeks to amend notification No. 08/2017- Integrated Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 50th meeting held on 11.07.2023.
07/2023	26.07.2023	Seeks to amend notification No. 09/2017- Integrated Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 50th meeting held on 11.07.2023.
08/2023	26.07.2023	Seeks to amend notification No. 10/2017- Integrated Tax (Rate) so as to notify change in GST with regards to services as recommended by GST Council in its 50th meeting held on 11.07.2023.
09/2023	26.07.2023	Seeks to amend No. 01/2017- Integrated Tax (Rate) to implement the decisions of 50th GST Council.

No.	Date	Subject
10/2023	26.07.2023	Seeks to amend No. 27/2018- Integrated Tax(Rate) to implement the decisions of 50th GST Council.
10/2023 Corrigendum	31.07.2023	Corrigendum to notification no. 10/2023 Integrated Tax (Rate)

Circular issued in the month of July 2023

No.	Date	Subject
192/2023	17.07.2023	Clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.
193/2023	17.07.2023	Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021
194/2023	17.07.2023	Clarification on TCS liability under Sec 52 of the CGST Act, 2017 in case of multiple E-commerce Operators in one transaction

No.	Date	Subject
195/2023	17.07.2023	Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period
196/2023	17.07.2023	Clarification on taxability of share capital held in subsidiary company by the parent company
197/2023	17.07.2023	Clarification on refund-related issues
198/2023	17.07.2023	Clarification on issue pertaining to e-invoice
199/2023	17.07.2023	Clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons

Orders

No order was issued in the month of July 2023

Removal of Difficulty Orders July 2023

No order was issued in the month of July 2023

Source: www.cbic.gov.in

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Business matters

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E: gstatoneplace@gmail.com

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