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TAX JURISPRUDENCE

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EXECUTIVE SUMMARY OF JUDGEMENTS / ADVANCE RULINGS UNDER DIRECT AND INDIRECT TAXES

We are pleased to draw your attention to following important decisions which might be useful for you to take call on tax position.

Case & Citation	Issue Involved	Decision
Indirect Tax		
Nspira Management Services Pvt. Ltd. vs Assistant/ Deputy Commissioner of Central Tax [2025] 179 taxmann.com 125 (Andhra Pradesh)	Whether limitation period of 2 years prescribed u/s 54 of CGST Act applies to refund claims for tax amount collected without authority of law (i.e., GST paid on exempt supplies).	The Hon'ble High Court of Andhra Pradesh held that amounts collected without authority of law are not "tax" under GST and thus falls outside the scope of Sec. 54 of CGST Act. Such refund claims must be decided on merits without applying limitation period.
Symphony Ltd and ANR v/s Union of India and ANR	Whether interest under Section 50 of the CGST Act can be levied for the period between the date of deposit into the electronic cash ledger and the date of filing Form GSTR-3B.	The Court ruled that depositing tax in the electronic cash ledger amounts to payment to the Government, and therefore, interest cannot be levied for the period between such deposit and the filing of Form GSTR-3B.

The brief analysis of above referred decisions and rulings are given below:

Case 1 – Nspira Management Services Pvt. Ltd. vs Assistant/ Deputy Commissioner of Central Tax [2025] 179 taxmann.com 125 (Andhra Pradesh)

Facts in brief & Issue Involved

- ♦ M/s Nspira Management Services Pvt Ltd. [hereinafter referred to as “Petitioner”], is a company engaged in management and consultancy services for educational institutions and in providing hostel accommodation to students.
- ♦ The petitioner had taken residential dwellings on rent for the purpose of providing accommodation to the students and paid GST on rent to the landlords.
- ♦ Renting of residential dwellings for residential use is exempt under Entry No. 12 of Notification No. 12/2017-CT(Rate) dated 28.06.2017. Despite the exemption provided, the GST was erroneously paid to the landlords.
- ♦ Therefore, in view of exemption notification, petitioner filed refund claims for GST paid on these exempt services, for the period Jul-17 to Jan-20 & Feb-20 to Jun-22.
- ♦ The Department rejected the refund claims by issuing deficiency memos, stating that the time limit of 2 years for submission of refund applications is already completed.
- ♦ Thus, being aggrieved by the deficiency memos, the writ petition was filed.

Contentions of Petitioner

- ♦ Petitioner contends that issuance of deficiency memos alone cannot decide the eligibility of refund claims, as the same requires adjudication in accordance with the procedure contemplated under the law.

- ◆ Further, as per the procedure mentioned u/r 92 of CGST Rules, respondent authorities are required to issue SCN in RFD-08 & allow the petitioner to file reply in RFD-09 & pass speaking order in RFD-06.

Contentions of Respondent

- ◆ It was submitted that as per Circular No.125/44/2019-GST, once a deficiency memo has been issued, refund application would not be further processed. Further, Sec 54 of CGST Act mandates filing of refund claims within 2 years from the relevant date.
- ◆ It was further contended that even after excluding the Covid period [01.03.2020 to 28.02.2022] as per Notification No. 13/2022-CT, the refund application was filed beyond prescribed limitation period.

Observations & Decision of High Court

- ◆ It is pertinent to note that services of renting residential dwellings for residential purpose are exempted under GST. Further, as per Article 265 of the Constitution of India, no tax shall be levied or collected except by authority of law.
- ◆ However, the petitioner inadvertently paid GST on rent charged by the landlord and subsequently filed a refund claim for the same.
- ◆ The High Court relied on the following judgements given in the case of–
 - Comsol Energy (P.) Ltd. vs. State of Gujarat [2021]
 - Binani Cement Ltd. vs. Union of India [2013]
 - Gokul Agro Resources Ltd. vs. Union of India [2020]
 - Louis Dreyfus Company (P) Ltd. vs. Union of India [2025]

- ♦ In all of the above judgements, the Courts have consistently held that tax collected without authority of law violates Article 265 of the Constitution, and hence, the limitation prescribed u/s 54 of CGST Act shall not apply. In such cases, refund claims are to be governed by the provisions of the Limitation Act.
- ♦ The Hon'ble High Court of Andhra Pradesh, following the above judgements, set aside the deficiency memos and directed the authorities to consider the refund application without examining 2-year limitation as prescribed u/s 54 of CGST Act.

NASA Comments

- ♦ This ruling of Hon'ble High Court is a welcome judgement, serving as a strong precedent for taxpayers seeking refund of taxes erroneously paid on exempt or non-taxable supplies.
- ♦ This judgement reinforces the principle that procedural limitations cannot override constitutional mandate under Article 265, which prohibits the retention of taxes collected without authority of law.

Case 2 – Symphony Ltd and ANR v/s Union of India and ANR

Facts in brief & Issue Involved

- ♦ The petitioners, Symphony Ltd. and Anr, challenged various communications issued under Section 79 of the GST Act, 2017 directing payment of interest on delayed tax payment.

- ♦ The petitioners have received show cause notice of an interest demand of Rs. 58,97,120/- for July 2017 for Gujarat state; a similar interest demands of Rs. 54,14,768/- were raised for the company's Patna and Jharkhand units.
- ♦ The petitioners had already deposited tax and applicable interest in their electronic cash ledger on 19 September 2017.
- ♦ The authorities, however, calculated interest up to the date of filing Form GSTR-3B (i.e. 14 August 2018), arguing that payment was completed only upon such filing.
- ♦ Petitioners argued that once funds were deposited in the electronic cash ledger, the amount stood credited to the Government and could not be withdrawn or used otherwise. Hence, no further interest could accrue beyond the date of such deposit.
- ♦ The respondents maintained that tax payment is deemed complete only when the amount is debited from the electronic cash ledger (i.e., upon filing of the return), relying on Section 50, Section 49, and Rule 87 of the CGST Act/Rules.

Observations & Decision of Court

- ♦ The Court observed that the petitioner had already deposited the tax and interest into the Electronic Cash Ledger (ECL) on 19 September 2017, and the same was subsequently adjusted towards tax liability through Form GSTR-3B.
- ♦ It was reiterated that once an amount is deposited via challan, it is immediately credited to the Government's account, and the taxpayer's liability stands discharged to the extent of such deposit. The adjustment through debit in the ECL at the time of filing the return is a matter of accounting.

- ♦ The Court held that the deposit in the ECL constitutes an advance payment of tax, which is duly adjusted when the return in Form GSTR-3B is filed.
- ♦ In line with Section 50 of the CGST Act, no interest is leviable for the period between the date of deposit in the ECL and the date of filing the GSTR-3B return.
- ♦ The Gujarat High Court accordingly ruled in favour of the petitioners, holding that interest cannot be demanded for the period after the amount has been deposited into the Electronic Cash Ledger.

NASA Comments

- ♦ For the taxpayers, this judgment offers relief by ensuring that once tax is deposited in the electronic cash ledger, no further interest is payable. It protects compliant taxpayers from unnecessary financial burden due to filing delays and where they have deposited the tax but forgot to file DRC-03.



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