ACUPRO CONSULTING

WEEK 2, MARCH 2023

# THE GST PULSE

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# Recent Judgement and Rulings

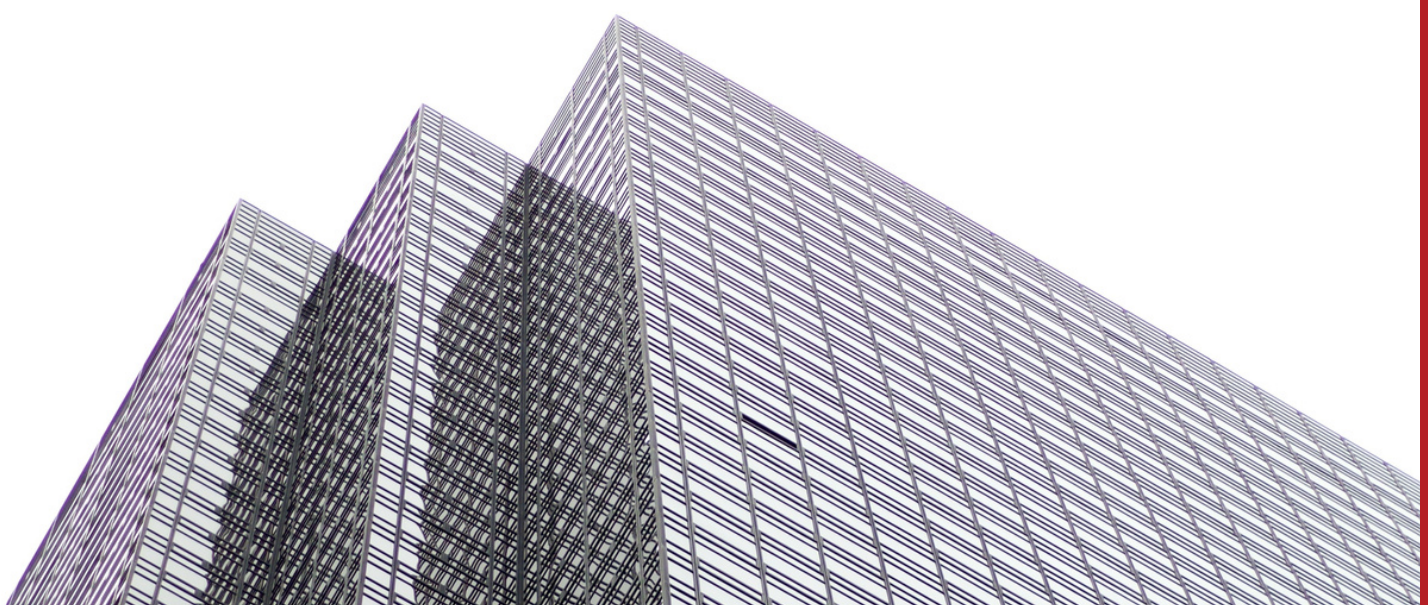
## *SVLDRS DISCHARGE CERTIFICATE CANNOT BE DENIED FOR DELAYED PAYMENT OF TAX DUE TO TECHNICAL GLITCH.*

### *HON'BLE AHMEDABAD HIGH COURT*

SK Likproof Private Limited is in the business of manpower recruitment agency, maintenance of repair service etc. The Revenue Department passed an Order-in-Original on March 13, 2019 directing the Petitioner to pay Service Tax amounting to INR 3,60,502/- along with interest and penalty under Section 73 of the Finance Act, 1994. An appeal was filed before the Appellate Authority, Meanwhile, Sabka Vishwas (Legacy Dispute Resolution) Scheme (SVLDRS) was notified through the Finance Act and the Petitioner had filed an application in Form SVLDRS -1. On January 21, 2020 the Petitioner was asked to submit documents and pay the amount of INR 81,050.60/- for full and final settlement of tax dues.

The Petitioner made the payment of Service Tax amounting to INR 81,051/- however, the discharge certificate was not received and the amount which was debited is again re-credited in the account of the Petitioner. The Petitioner once again made the payment of Service Tax amounting to INR 81,051/- after the due date had elapsed. The payment was made twice due to technical glitch but the discharge certificate was still not issued. On March 14, 2022 the Respondent issued a notice under the CGST Act in Form GST DRC-13, directing to pay liabilities. The payment of INR 7,68,675/- was made. Being aggrieved the Petitioner has filed an appeal in High Court contended that he is entitled to a refund of INR 7,68,675/- along with interest which was paid by it due to the coercive action of the Respondent.

The Hon'ble Ahmedabad High Court has held that technical glitch being the reason for non-functioning of the bank's software does not hold the assessee liable or accountable for non-payment. Further, the denial of the Revenue Department for considering the case and the later recovery of an amount of INR 7,68,675/- must be reverted and the Revenue Department must refund the sum and issue discharge certificates.



# *ITC REFUND CANNOT BE REJECTED WITHOUT PROVIDING AN OPPORTUNITY OF BEING HEARD TO THE ASSESSEE*

## *HON'BLE RAJASTHAN HIGH COURT*

M/s. Chandni Crafts ("the Petitioner") had claimed a refund of accumulated ITC for the months of July 2017 and August 2017 according to section 54(3) of the CGST Act 2017 on account of export of goods under the letter of undertaking. The revenue department ("the Respondent") partially sanctioned the refund. Against which, the Petitioner preferred an appeal before the Appellate Authority. However, it was rejected vide the Order-in-Appeal ("the OIA").

Being aggrieved the Petitioner has filed an appeal in High Court. The Petitioner contended that the respondent violated the provisions of Section 54(3) of the CGST Act and Rule 92 (3) of the CGST Rules. As per rule 92(3), the respondent shall issue the Form GST RFD-08 requiring the applicant to furnish a reply in Form GST RFD-09 and after considering the reply, the order can be made in Form GST RFD-06. However, the refund was rejected by the respondent without providing an opportunity of being heard.

The Hon'ble Rajasthan High Court held that refund cannot be rejected without providing an opportunity of being heard to the applicant. The Hon'ble Court remanded the matter back to the respondent for fresh consideration as per Rule 92(3) of the CGST Rules and passed an order in accordance with the law.



# *AMOUNT OF GST TO BE ADJUSTED IF THERE IS AN ISSUE OF MISMATCH WITH BANK STATEMENT IN GST RETURN*

## *HON'BLE ALLAHABAD HIGH COURT*

Vriddhi Infratech India Pvt. Ltd. ("the Petitioner") was issued a Notice under section 61 of the CGST Act due to its annual return showing a turnover of INR 129.52 lakhs that did not match its bank statement. The Petitioner challenged the Order-in-Original (the OIO) dated June 4, 2021 and the Order-in-Original (the OIA) dated October 26, 2021 on the grounds that the GST amount which could not be deposited in the Financial Year 2017-18 was adjusted in the F.Y. 2018-19.

The Petitioner contended that, the basis of the Notice is wrong, as its FORM GSTR-09 shows the turnover amount of INR 129.52 lakhs regarding supply made to unregistered persons under the B2C Category and the Revenue Department ("the Respondent") did not consider the entire form, which at its end shows the total turnover of INR 20.37 lakhs through FORM GSTR-09 in the F.Y. 2017-18. Being aggrieved the Petitioner has filed an appeal in High Court contending that the Respondent has misread the FORM-GSTR-09 filed by the Petitioner.

The Hon'ble Allahabad High Court has set aside the order passed by the Revenue Department, on the grounds, that the Revenue Department and the Appellate Authority have committed the misreading of FORM GSTR-09 filed by the assessee. Directed the Revenue Department to adjust the GST amount deposited by the Petitioner.



# Recent Updates

## *GSTN ENABLED OPTION TO UTILIZE THE AMOUNT IN CASH LEDGER OF ONE GSTIN BY ANOTHER GSTIN HAVING SAME PAN*

### *GST NETWORK (GSTN)*

The Goods and Services Tax Network ("GSTN") has enabled the option to utilize the amount in the cash ledger of one the Goods and Services Tax Identification Number ("GSTIN") by another GSTIN (entities having the same PAN) by way of transfer through form GST PMT-09 has been made effective in the GST portal.

**Relevant Provision:**

Rule 87(14) of the Central Goods and Services Tax Rules, 2017 ("the CGST Rules")Electronic Cash Ledger –

(14) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for central tax or integrated tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25, in FORM GST PMT- 09:

Provided that no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.



# Thank You!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