



कार्यालय प्रधान आयुक्त, केन्द्रीय वस्तु एवं सेवाकर आयुक्तालय, जयपुर
नव केन्द्रीय राजस्व भवन, स्टेच्यू सर्किल, सी-स्कीम, जयपुर-302005

Trade Notice No.-01/2021

Dated .07.2021

Sub:- Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021 -Reg.

Please find enclosed Circular No.157/13/2021-GST dated 20.07.2021, issued by the Principal Commissioner, GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India regarding "Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021". A copy of Hon'ble Supreme Court Order dated 27.04.2021 is also enclosed.

All the Trade Bodies and Industry Associations/Chambers of Commerce are requested to make their members aware of the subject matter of the Circular.

Enclosed:- As above.

प्रधान आयुक्त
दिनांक: .07.2021

फा.सं. V-16/01/Policy/T.N./2020

निम्न को सूचना एवं आवश्यक कार्यवाही के लिए प्रतिलिपी:-

- (1) मुख्य आयुक्त, सीजीएसटी एवं केन्द्रीय उत्पाद शुल्क, जयपुर परिक्षेत्र, जयपुर।
- (2) उप/ सहायक आयुक्त, सीजीएसटी संभाग- ए/बी/सी/डी/ई/एफ/जी/एच/आई, जयपुर एवं जे/के, अजमेर।
- (3) डॉ. के.एल. जैन, सचिव, राजस्थान चैम्बर ऑफ कॉमर्स एंड इंडस्ट्रीज, चैम्बर भवन, एम.आई. रोड, जयपुर।
- (4) श्री तारा चंद गोयल, लघु उद्योग भारती, राजस्थान जोनल ऑफिस, एस-8, गोविन्दम कॉम्प्लेक्स, एस.सी. रोड, जयपुर-302001।
- (5) श्री कुलदीप गुप्ता, इंडस्ट्रीज ऑफ चार्टर्ड अकाउंटेंट्स, डी-1, झालाना झूंगरी, इंस्टीट्यूशनल, एरिया, जयपुर।
- (6) श्री सुरेश अग्रवाल, अध्यक्ष, फेडरेशन ऑफ राजस्थान ट्रेड एंड इंडस्ट्रीज (एफओआरटीआई), ए-7, द्वितीय तल, गणपति एन्क्लेव, सिविल लाइन्स, अजमेर रोड, जयपुर।
- (7) श्री अरविंद खींचा, राजस्थान सीमेन्ट मैनुफैक्चरर एसोसिएशन सी/ओ मसेर्स सीमेंट लिमिटेड, ज.एल.एन.मार्ग, राजस्थान विश्वविद्यालय के सामने, जयपुर।
- (8) श्री एस.आर. अग्रवाल, राजस्थान स्टील चैम्बर, बी-234, रोड नं.-9, वीकेआई एरिया, जयपुर-302013।
- (9) श्री सुनिल दत्त गोयल, डायरेक्टर जनरल, इम्पीरियल चैम्बर ऑफ कॉमर्स एंड इंडस्ट्री, 4-विष्णु पथ, सत्य विहार, लाल कोठी, जयपुर-302015।
- (10) अधीक्षक (कम्प्यूटर), केन्द्रीय वस्तु एवं सेवाकर आयुक्तालय, जयपुर को विभागीय वेबसाइट पर अपलोड करने हेतु।

सहायक आयुक्त (तकनीकी)

ITEM NO.1

Court 1 (Video Conferencing)

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020

IN RE COGNIZANCE FOR EXTENSION OF LIMITATION

Petitioner(s)

VERSUS

XXXX

Respondent(s)

(FOR ADMISSION and IA No.55867/2021-INTERVENTION/IMPLEADMENT and IA No.55869/2021-APPROPRIATE ORDERS/DIRECTIONS and IA No.55865/2021-APPLICATION FOR PERMISSION)

Date : 27-04-2021 This Application was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE A.S. BOPANNA

For the Parties:
For applicant

Mr. Shivaji M. Jadhav, Adv.
Mr. Manoj K. Mishra, Adv.
Dr. Joseph S. Aristotle, Adv.
Ms. Diksha Rai, Adv.
Mr. Nikhil Jain, Adv.
Mr. Atulesh Kumar, Adv.
Dr. Aman Hingorani, Adv.
Ms. Anzu Varkey, Adv.
Mr. Sachin Sharma, Adv.
Mr. Aljo Joseph, Adv.
Mr. Varinder Kumar Sharma, Adv.
Mr. Abhinav Ramkrishna, AOR

For Union of
India

Mr. K.K. Venugopal, AG
Mr. Tushar Mehta, SG
Mr. Rajat Nair, adv.
Mr. Kanu Agrawal, Adv.
Mr. Siddhant Kohli, Adv.
Ms. Chinmayee Chandra, Adv.
Mr. B.V. Balaram, Das, Adv.

Signature Not Verified
Digitally signed by
Neelam Gupta
Date: 2024.04.28
18:13:06 IST
Reason:

For R.No.4
in SMWP 3/20

Mr. Divyakant Lahoti, AOR
Mr. Parikshit Ahuja, Adv.
Ms. Praveena Bisht, Adv.
Ms. Madhur Jhavar, Adv.

Ms. Vindhya Mehra, Adv.
Mr. Kartik Lahoti, Adv.
Mr. Rahul Maheshwari, Adv.

Mr. Abhimanyu Tewari, Adv.
Ms. Eliza Barr, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Court is convened through Video Conferencing.

This Court took *suo motu* cognizance of the situation arising out of the challenge faced by the country on account of COVID-19 Virus and resultant difficulties that could be faced by the litigants across the country. Consequently, it was directed vide order dated 23rd March, 2020 that the period of limitation in filing petitions/ applications/ suits/ appeals/ all other proceedings, irrespective of the period of limitation prescribed under the general or special laws, shall stand extended with effect from 15th March, 2020 till further orders.

Thereafter on 8th March, 2021 it was noticed that the country is returning to normalcy and since all the Courts and Tribunals have started functioning either physically or by virtual mode, extension of limitation was regulated and brought to an end. The *suo motu* proceedings were, thus, disposed of issuing the following directions:

"1. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2020, if any, shall become available with effect from 15.03.2021.

2. In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.

3. The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

4. The Government of India shall amend the guidelines for containment zones, to state.

"Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications, including for legal purposes, and educational and job-related requirements."

Supreme Court Advocate on Record Association (SCAORA) has now through this Interlocutory Application highlighted the daily surge in COVID cases in Delhi and how difficult it has become for the Advocates-on-Record and the litigants to institute cases in Supreme Court and other courts in Delhi. Consequently, restoration of the order dated 23rd March, 2020 has been prayed for.

We have heard Mr. Shivaji M. Jadhav, President SCAORA in support of the prayer made in this application. Learned Attorney General and Learned Solicitor General have also given their valuable suggestions.

We also take judicial notice of the fact that the steep rise in COVID-19 Virus cases is not limited to Delhi alone but it has engulfed the entire nation. The extraordinary situation caused by the sudden and second outburst of COVID-19 Virus, thus, requires extraordinary measures to minimize the hardship of litigant-public in all the states. We, therefore, restore the order dated 23rd March, 2020 and in continuation of the

order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities.

This order may be brought to the notice of all High Courts for being communicated to all subordinate courts/Tribunals within their respective jurisdiction.

Issue notice to all the Registrars General of the High Courts, returnable in 6 weeks.

List the Miscellaneous Application on 19th July, 2021.

(NEELAM GULATI)
ASTT. REGISTRAR-cum-PS

(RAJ RANI NEGI)
DY. REGISTRAR

File No: CBIC-20006/10/2021
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 20th July, 2021

To,
The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/
Commissioners of Central Tax (All)
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject : Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021.

The Government has issued notifications under Section 168A of the CGST Act, 2017, wherein the time limit for completion of various actions, by any authority or by any person, under the CGST Act, which falls during the specified period, has been extended up to a specific date, subject to some exceptions as specified in the said notifications. In this context, various representations have been received seeking clarification regarding the cognizance for extension of limitation in terms of Hon'ble Supreme Court Order dated 27.04.2021 in Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020 under the GST law. The issues have been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues detailed hereunder:

2.1 The extract of the Hon'ble Supreme order dated 27th April 2021 is reproduced below for reference:

"We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders. It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities.”

2.2 The matter of extension of period of limitation under Section 168A of the CGST Act, 2017 was deliberated in the 43rd Meeting of GST Council. Council, while providing various relaxations in the compliances for taxpayers, also recommended that wherever the timelines for actions have been extended by the Hon'ble Supreme Court, the same would apply.

3. Accordingly, legal opinion was solicited regarding applicability of the order of the Hon'ble Supreme Court to the limitations of time lines under GST Law. The matter has been examined on the basis of the legal opinion received in the matter. The following is observed as per the legal opinion:-

- (i) The extension granted by Hon'ble Supreme Court order applies only to quasi-judicial and judicial matters relating to petitions/ applications/ suits/ appeals/ all other proceedings. All other proceedings should be understood in the nature of the earlier used expressions but can be quasi-judicial proceedings. Hon'ble Supreme Court has stepped into to grant extensions only with reference to judicial and quasi-judicial proceedings in the nature of appeals/ suits/ petitions etc. and has not extended it to every action or proceeding under the CGST Act.
- (ii) For the purpose of counting the period(s) of limitation for filing of appeals before any appellate authority under the GST Law, the limitation stands extended till further orders as ordered by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) 3 of 2020 vide order dated 27th April 2021. Thus, as on date, the Orders of the Hon'ble Supreme Court apply to appeals, reviews, revisions etc., and not to original adjudication.
- (iii) Various Orders and extensions passed by the Hon'ble Supreme Court would apply only to acts and actions which are in nature of judicial, including quasi-judicial exercise of power and discretion. Even under this category, Hon'ble Supreme Court Order, applies only to a lis which needs to be pursued within a time frame fixed by the respective statutes.
- (iv) Wherever proceedings are pending, judicial or quasi-judicial which requires to be heard and disposed off, cannot come to a standstill by virtue of these extension orders. Those cases need to be adjudicated or disposed off either physically or through the virtual mode based on the prevailing policies and practices besides instructions if any.
- (v) The following actions such as scrutiny of returns, issuance of summons, search, enquiry or investigations and even consequential arrest in accordance with GST law would not be covered by the judgment of the Hon'ble Supreme Court.
- (vi) As regards issuance of show cause notice, granting time for replies and passing orders, the present Orders of the Hon'ble Supreme Court may not cover them even though they are quasi-judicial proceedings as the same has only been made applicable to matters relating to petitions/applications/suits, etc.

4. On the basis of the legal opinion, it is hereby clarified that various actions/compliances under GST can be broadly categorised as follows: -

(a) **Proceedings that need to be initiated or compliances that need to be done by the taxpayers:-** These actions would continue to be governed only by the statutory mechanism and time limit provided/ extensions granted under the statute itself. Various Orders of the Hon'ble Supreme Court would not apply to the said proceedings/ compliances on part of the taxpayers.

(b) **Quasi-Judicial proceedings by tax authorities:-**

The tax authorities can continue to hear and dispose off proceedings where they are performing the functions as quasi-judicial authority. This may interalia include disposal of application for refund, application for revocation of cancellation of registration, adjudication proceedings of demand notices, etc.

Similarly, appeals which are filed and are pending, can continue to be heard and disposed off and the same will be governed by those extensions of time granted by the statutes or notifications, if any.

(c) **Appeals by taxpayers/ tax authorities against any quasi- judicial order:-** Wherever any appeal is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, the time line for the same would stand extended as per the Hon'ble Supreme Court's order.

5. In other words, the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws.

6. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

7. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)
Pr. Commissioner (GST)