

June 2021

Indirect Taxes

I. CASE LAWS

Torque Pharmaceuticals (P) Ltd. & Ors. v. UOI

Facts: Orders passed in the batch of petitions were appealable before the Appellate Tribunal under section 112 of the CGST Act but assessee filed these petitions for reason that the Tribunal under section 109 was not constituted so far by the Government, i.e., the Central

Government, under section 109. Since the challenge to orders relates to questions of fact and the Appellate Tribunal was the last fact-finding authority, therefore, it was open for petitioner to challenge the impugned orders before Tribunal under section 112 as and when the State Bench and Area Benches of the Appellate Tribunal were constituted.



Held: It was pertinent to mention that dealers in the State falling under the CGST Act and aggrieved with the orders of first

appellate authority under section 107, have been left remediless inasmuch as Appellate Tribunal under the Act was not available in the State for preferring appeals under section 112. Tribunal being the last fact finding authority and its not availability in the State, was causing serious prejudice to the rights of aggrieved persons for statutory appeal which was continuing since the enactment of the CGST Act. It was directed that GST Council shall forward its recommendation of Agenda Item No. 6 of the 39th Meeting to Central Government within two weeks. Thereafter, Central Government shall, within next four weeks, specify by notification in terms of sub-section (6) of section 109 of the CGST Act the 'State Bench' of Tribunal.

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II. UPDATES AND NOTIFICATIONS

A. RELIEF FOR THE TAXPAYERS IN 43rd GST COUNCIL MEETING

The GST council in its 43rd meeting hold on 28th May, 2021 under the Chairmanship of Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman has discussed various matters relating to changes in GST rates on supply of goods and services and changes in GST law and procedures which includes exemption on COVID-19 relief items, GST Amnesty Scheme and relaxation in return filing. As a measure for trade facilitation and to help the corporate industries and small business, the council has notified the GST Amnesty Scheme in their press release.



Now all the tax payer who couldn't file their GSTR 3B for the tax periods from July,2017 to April,2021 can file the pending returns and avail the benefits of Amnesty Scheme with reduced late fees as follows,

- a) Rs. 500 (*Rs.250 under CGST and Rs.250 under SGST*) per return for tax payers who did not have any tax liability during the said tax periods.
- b) Rs. 1,000 (*Rs.500 under*

CGST and Rs.500 under SGST) per return for other tax payers.

The taxpayer has to furnish the pending GSTR 3B between 1st June,2021 and 31st August,2021 to avail this benefit.

The council has also decided to rationalize the late fee imposed for delay in furnishing of returns under the section 47 of CGST Act for the tax period June,2021 onwards or quarter ending June,2021 onwards.

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A) The late fees for delay in furnishing GSTR 3B and GSTR 1 have capped to a maximum per return of,

S. No	Class of registered persons	Late fee under CGST	Late fee under SGST
1	Tax payers having nil tax liability in GSTR 3B or nil outward supplies in GSTR 1	Rs. 250	Rs. 250
2	Registered persons having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year, other than those covered under S. No. 1	Rs.1000	Rs.1000
3	Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	Rs.2500	Rs.2500

B) Delay in furnishing GSTR-4 by composition taxpayers will now attract a maximum late fee of Rs. 500 (*Rs.250 under CGST and Rs.250 under SGST*) per return in case of nil tax liability, Rs. 2000 (*Rs.1000 under CGST and Rs.1000 under SGST*) per return for others.

C) Delay in furnishing GSTR-7 by persons who are required to deduct TDS, has been reduced to Rs. 50 per day (*Rs.25 under both CGST and SGST*). Provided that the maximum amount of late fee payable for failure to furnish the return will be Rs.2000 (*Rs.1000 under both CGST and SGST*).



The council has also provided additional relief in the form of waiver and reduced rate of interest for payment of tax liability for the tax period of March, April and May,2021.

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A) Interest rates

Class of taxpayers	Tax period		
	March,2021	April,2021	May,2021
Aggregate turnover up to Rs.5 crores in preceding financial year	Nil for the first 15 days from the due date, 9% for the next 45 days, and 18% thereafter.	Nil for the first 15 days from the due date, 9% for the next 30 days, and 18% thereafter.	Nil for the first 15 days from the due date, 9% for the next 15 days, and 18% thereafter.
Aggregate turnover more than Rs.5 crores in preceding financial year	9 % for the first 15 days from the due date and 18 % thereafter.	9 % for the first 15 days from the due date and 18 % thereafter.	9 % for the first 15 days from the due date and 18 % thereafter.

B) Late fee

Class of taxpayers	Tax period		
	March,2021	April,2021	May,2021
Aggregate turnover up to Rs.5 crores in preceding financial year	60 days from the due date of furnishing return.	45 days from the due date of furnishing return.	30 days from the due date of furnishing return.
Aggregate turnover more than Rs.5 crores in preceding financial year	15 days from the due date of furnishing return.	15 days from the due date of furnishing return.	15 days from the due date of furnishing return.

- Composite taxpayers are liable to pay NIL interest for the first 15 days from the due date, 9% for the next 45 days and 18% thereafter for the quarter ended on March,2021.

Reference

1. 43rd Council meeting -Press release
2. Notification -18/2021-Central Tax dated 01.06.2021
3. Notification -19/2021-Central Tax dated 01.06.2021
4. Notification -20/2021-Central Tax dated 01.06.2021
5. Notification -21/2021-Central Tax dated 01.06.2021
6. Notification -22/2021-Central Tax dated 01.06.2021

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B. Other Updates:

a. GST on slump sale: An intricacy to look upon

Setting up a business undertaking has been a tough row to hoe as it involves multiple compliances and formalities to be undertaken with regard to incorporation and taxation. However, sometimes despite ample efforts, business undertakings may not meet its growth expectations.



b. Govt. releases operational guidelines for the Production Linked Incentive (PLI) Scheme for Pharmaceuticals

The Government has notified the scheme on 3rd March, 2021 to enhance India's manufacturing capabilities by increasing investment and production in the sector and contributing to product diversification to high value goods in the pharmaceutical sector. Now, the operational guidelines for the Production Linked Incentive (PLI) Scheme for Pharmaceuticals has been issued which provides whole criteria and procedure in detail.

c. GSTINs which are suspended are now allowed for generation of e-waybill

The GSTINs which are suspended on the GST Common Portal can continue generating e-way bills on the e-way bill portal. Similarly, the recipient and transporter GSTINs which are suspended are also allowed for generation of e-waybill.

d. No IGST on import of Covid-19 relief materials for donating to Govt. or authorised relief agency: Notification

The Government has notified that IGST would not be levied on imported goods which are meant for free distribution for COVID relief by the Central Government, State Government, or a relief agency as recommended by the nodal authority.

