

MONTHLY NEWSLETTER

GST TRACKER

ISSUE: JUNE 2023

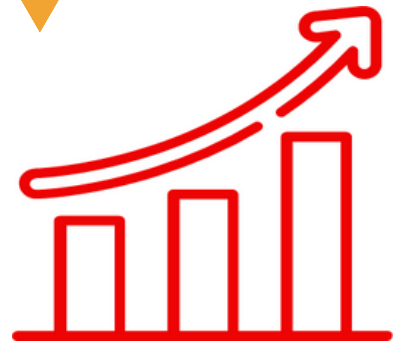


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Case Law Corner



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Opportunity of hearing is mandatory & adjournment request cannot be declined based on the illness of the assessee as given in judgement by Madras High Court.

Particulars	Details
Name of Petitioner	M/s. Bhavadharani Builders
Name of Respondent	The Deputy Commissioner of CGST and Central Excise
Authority	Madras High Court
Date of Judgement	11.05.2023
Appeal No.	W.P.(MD).No.11631 of 2023 & W.M.P. (MD).No.10097 of 2023

Brief facts of the case

The Department have issued notice of personal hearing dated 14.11.2022 and the date of personal hearing was fixed on 25.11.2022. But the petitioner has sought an adjournment vide reply dated 23.11.2022 citing his illness. Thereafter, the Department has issued personal hearing Notice dated 23.02.2023 directing the petitioner to appear for the personal hearing fixed on 01.03.2023. After receipt of the notice, the petitioner has sent adjournment letter dated 27.02.2023 informing that he has been admitted in Hospital as inpatient and he is undergoing treatment for which he has produced the Medical Certificate. Thereafter, the Department have issued one more notice dated 10.03.2023, wherein the petitioner was directed to appear for personal hearing on 16.03.2023. Immediately, the petitioner has sent an adjournment letter dated 14.03.2023 seeking “2 months time” to file reply to the SCN for which the petitioner also enclosed the certificate of the Hospital where he has been diagnosed as having cancer in his right leg. However, the Department declined to grant adjournment and passed an impugned order dated 20.04.2023.

Contention of the Petitioner:

The petitioner has challenged the assessment order dated 20.04.2023 which was passed without providing sufficient opportunity of personal hearing to the petitioner.

Contention of the Department:

The Department submitted that the Hon'ble Division Bench has granted only 60 days time from the date of issuance of such Show Cause Notice to file reply, vide order dated 30.11.2022 in W.P.No.24996 of 2019. Thereafter, the Department was granted 90 days for passing final order. Since only 60 days time is granted by the Division Bench, the Department is constrained to pass final order; hence the Department refused to grant further adjournment and has passed the impugned order. The Department is bound to follow the directions issued by the Hon'ble Division Bench failing which contempt proceedings may be initiated. The petitioner ought to have directed his representatives to appear before the authorities for personal hearing instead of seeking any adjournment.

Findings & Decision of the Court

The Court opines that without instructions, without verifying the records, the petitioner cannot direct his representatives to appear. Moreover, the petitioner is having full knowledge of the transactions. Therefore, the petitioner sought time to appear for the personal hearing. Even to instruct his representatives on facts, the petitioner ought to verify the records and instruct, for which he needs time. Therefore, this Court is of the considered opinion that adjournment ought not to be declined when an assessee is seeking adjournment based on his illness and medical treatment. Further, the reason cited by the Department is erroneous. Therefore, the impugned order was set aside.

GSTN Updates & Notifications Corner

GSTN Updates May 2023

Date	Subject
04.05.2023	Advisory for Timely Filing of GST Returns
06.05.2023	Advisory: Deferment of Implementation of Time Limit on Reporting Old e-Invoices
28.05.2023	Advisory on due date extension of GST Returns for the state of Manipur
30.05.2023	Advisory on Filing of Declaration In Annexure V by Goods Transport Agency (GTA) opting to pay tax under forward charge mechanism

Source: www.gst.gov.in

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

Central Tax Notifications May 2023

No.	Date	Subject
10/2023	10.05.2023	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 5 Cr from 01 st August 2023.
11/2023	24.05.2023	Seeks to extend the due date for furnishing FORM GSTR-1 for April, 2023 for registered persons whose principal place of business is in the State of Manipur.
12/2023	24.05.2023	Seeks to extend the due date for furnishing FORM GSTR-3B for April, 2023 for registered persons whose principal place of business is in the State of Manipur.
13/2023	24.05.2023	Seeks to extend the due date for furnishing FORM GSTR-7 for April, 2023 for registered persons whose principal place of business is in the State of Manipur.

Central Tax (Rate) Notification May 2023

No.	Date	Subject
05/2023	09.05.2023	Seeks to amend notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 so as to to extend last date for exercise of option by GTA to pay GST under forward charge.

Integrated Tax Notification May 2023

No Integrated Tax Notification was issued in the month of May 2023

Integrated Tax (Rate) Notification May 2023

No.	Date	Subject
05/2023	09.05.2023	Seeks to amend notification No. 08/2017- Integrated Tax (Rate) dated 28.06.2017 so as to to extend last date for exercise of option by GTA to pay GST under forward charge.

Circular issued in the month of May 2023

No Circular was issued in the month of May 2023

Orders

No order was issued in the month of May 2023

Removal of Difficulty Orders May 2023

No order was issued in the month of May 2023

Source: www.cbic.gov.in

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February Video available @

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CALCUTTA HIGH COURT

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