

MONTHLY NEWSLETTER

GST TRACKER

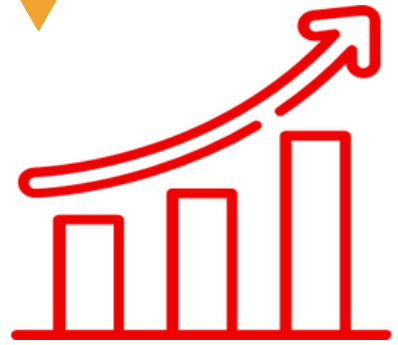
ISSUE: JUNE 2024

Published by www.gstatoneplace.com

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CONTENTS

01

GST Case Law Corner

05

GSTN Updates

06

**Notifications &
Circulars**

Case Law Corner



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Section 73/74: Officers of Director General of G.S.T. (Intelligence) have the power to issue show cause notice

Particulars	Details
Name of Petitioner	M/s. Famina Shopping Mail Pvt. Ltd.
Name of Respondent	Director General of G.S.T. Intelligence
Authority	Madras High Court
Date of Judgement	14th March, 2024

Brief facts of the case

The petitioner was running a Departmental Store. There was a search and seizure operation in the petitioner's premises, followed by which, the petitioner was issued with the impugned proceedings dated 12.10.2021 by the DGGI.

Contention of the Petitioner

The DGGI is not the proper Officer and adjudicating authority as contemplated under Sections 73 and 74 of the CGST Act, which has been highlighted in Circular No.23/2021 dated 04.10.2021.

The show cause notice can be issued only by the jurisdictional proper Officer concerned and not by the Inspecting Officers.

Since the impugned proceedings have not been issued by the proper officer, it is liable to be quashed.

Contention of DGGI

The inspection was conducted in the petitioner's premises on 06.06.2019 and 20.08.2019 and they found that the petitioner sold the goods, which were procured from the local suppliers in their own packaged unit containers.

Since the petitioner did not discharge the GST amount, a summon was issued to the petitioner on 26.06.2019, which was challenged by the petitioner in W.P.(MD)No. 16842 of 2019 before this Court and this Court, by order dated 30.07.2019, directed the DGGI to conduct an enquiry and issue a show cause notice and adjudicate the case.

Pursuant to the direction of this Court, a pre-show cause notice was issued in Form GST DRC-01A dated 12.10.2021, which is challenged in this writ petition.

The circular No.23/2021 dated 04.10.2021, relied upon by the petitioner, was issued by the Commissioner of Commercial Tax (State) laying down the proper procedure of adjudication by the Intelligence Wing Officer. The said circular is applicable to the State GST Officers and it is not binding on the central tax officer. CBIC has issued a Circular No.31/05/2018-GST dated 09.02.2018 assigning proper Officers under various Sections of the statute and giving powers to issue show cause notice. Therefore, DGGI is the proper officer to issue the impugned proceedings.

The impugned proceedings is only a pre-show cause notice and it has been issued in Form GST DRC-01A in order to afford an opportunity to the petitioner to resolve the dispute by depositing the tax and interest at pre-show cause notice stage and also to reduce the litigations.

Findings & Decision of the Court

The DGGI have conducted an inspection on the petitioner's premises. During the inspection, they found that during the period from 22.09.2017 to 20.08.2019, the petitioner company has effected outward supply of taxable goods viz., certain grocery items, under the unregistered brand name, but, they have not paid the appropriate GST and not fulfilled either one of the conditions prescribed in the Notification No.27/2017-Central Tax (Rate) dated 22.09.2017 to avail exemption. Therefore, the impugned proceedings have been issued.

As per the Circular dated 09.02.2018 issued by the CBIC, Central Government of India, the officers of Director General of G.S.T. (Intelligence) shall exercise the power to issue show cause notice. Therefore, the impugned proceedings have been issued by the competent authority.

Moreover, the impugned proceedings are only a pre-show cause notice. Therefore, the writ petition was dismissed.

GSTN Updates & Notifications Corner

GSTN Updates May 2024

Date	Subject
16.05.2024	Information from manufacturers of Pan Masala and Tobacco taxpayers
28.05.2024	Advisory on launch of E-Way Bill 2 Portal

Source: www.gst.gov.in

Notification/Circulars/Orders issued in the month of May 2024

Central Tax Notifications May 2024

No.	Date	Subject
10/2024	29.05.2024	Seeks to amend the Notification no. 02/2017-CT dated 19.06.2017 with effect from 5th August, 2023
11/2024	30.05.2024	Seeks to amend Notification No. 02/2017-CT dated 19th June, 2017 to assign district of Kotputli-Behrur to CGST Alwar Commissionerate

Central Tax (Rate) Notification May 2024

No Central Tax(Rate) Notification was issued in the month of May 2024

Integrated Tax Notification May 2024

No Integrated Tax Notification was issued in the month of May 2024

Integrated Tax (Rate) Notification May 2024

No Integrated Tax (Rate) Notification was issued in the month of May 2024

Circular issued in the month of May 2024

No Circular was issued in the month of May 2024

Orders

No order was issued in the month of May 2024

Removal of Difficulty Orders May 2024

No order was issued in the month of May 2024

Source: www.cbic.gov.in

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Business matters

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