

# TAX INFO

*Dated 23/12/2022*

Latest update on GST Law: **Summons should contain a unique DIN and have to be issued as a last resort** as given in judgement by **Delhi High Court**.

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<b>Name of Petitioner</b>	Eversub India Private Limited
<b>Name of Respondent</b>	Union of India
<b>Court</b>	Delhi High Court
<b>Date of Judgement</b>	28.07.2022
<b>Appeal No.</b>	W.P.(C) 11218/2022

## **Brief Facts of the Case Law:**

The writ petition was directed against the summons dated 28.04.2022, issued by the Department. A perusal of the summon would show, that neither the Document Identification Number (“DIN”) has been mentioned, nor is it specified as to who was required to remain present on the date indicated in the impugned summon. Although the petitioner is a company, the summon issued is addressed to the “Proprietor/Director/Partner”. Obviously, the petitioner, which is a company, does not have a proprietor or partner. There is no indication as to the individuals who had to present themselves on the date mentioned in the aforesaid summon. Though the Authorized Representative (AR) of the petitioner was present on the date given in the summon. The grievance of the petitioner was that Department by issuing summon has disregarded the circulars dated 23.12.2019, and the guidelines incorporated in the circular dated 05.11.2019.

## **Findings and Decision of the Court:**

1. The summon issued by the Department were required to indicate the DIN. As per the guidelines, this generates an audit trail and helps in bringing about transparency in the system. If the summon contain DIN, it lends authenticity to the document. The circulars and guidelines provide for exceptions, only in an emergency situation.
2. Also, the summons has to be issued as a last resort as per under the aforesaid circulars and guidelines. If information can be obtained from officers working for an entity, then the top management need not be roped in immediately.
3. The Department can issue a summon to a concerned person only when they are able to demonstrate that a particular person in the company is involved in infractions or suspected of committing infractions.
4. The circulars and guidelines are binding on revenue. In future, if summon is issued, regard will be given to the aforementioned circulars and guidelines framed in that behalf.
5. If summon is served on the Petitioner’s employee for furnishing information or to seek his presence before the concerned officer and if a request is made that the employee summoned would be represented through an authorised agent, such request will be considered and in case such a request is declined, reasons for the same will be furnished.

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