

TAX INFO

Dated: 03.09.2020

Latest update on GST Law: Information regarding **HC should not have entertained writ challenging Goods Seized under GST** based on the **Judgement issued by Supreme Court.**

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HC should not have entertained writ challenging Goods Seized under GST

Name of Petitioner	State of Uttar Pradesh and Ors.
Name of Respondent	Kay Pan Fragrance Pvt. Ltd.
Court	Supreme Court
Date of Judgement	22.11.2019
Order No.	Civil Appeal No. 8941/2019

The appeal is filed by the State of U.P., questioning the interim order passed by the High Court directing the State to release the seized goods, subject to deposit of security other than cash or bank guarantee or in the alternative, indemnity bond equal to the value of tax and penalty to the satisfaction of the Assessing Authority. It was brought to our notice that the High Court, after passing the said interim order would then dispose of the main Writ Petition as having become infructuous, consequent to release of goods by the appropriate authority in terms of the interim order of the High Court.

For the sake of consistency, we have no hesitation in observing that the High Court ought to have relegated the assessee before the appropriate Authority for complying with the procedure prescribed in Section 67 of the Act read with Rules as applicable for release (including provisional release) of seized goods.

There is no reason why any other indulgence need be shown to the assessee, who happen to be the owners of the seized goods. They must take recourse to the mechanism already provided for in the Act and the Rules for release, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum (even upto the total value of goods involved), respectively, as may be prescribed or on payment of applicable taxes, interest and penalty payable, as the case may be, as predicated in Section 67 (6) of the Act. In the interim orders passed by the High Court which are subject-matter of assail before this Court, the High Court has erroneously extricated the assessee concerned from paying the applicable tax amount in cash, which is contrary to the said provision.

It was held that the orders passed by the High Court which are contrary to the stated provisions shall not be given effect to by the authorities. Instead, the authorities shall process the claims of the concerned assessee afresh as per the express stipulations in Section 67 of the Act read with the relevant rules in that regard. In terms of this order, the competent authority shall call upon every assessee to complete the formality strictly as per the requirements of the stated provisions disregarding the order passed by the High Court in his case, if the same deviates from the statutory compliances. That be done within four weeks without any exception.

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