

# TAX INFO

Dated: 27.08.2020

Latest update on GST Law: Information regarding **Important Ruling that Order served on GST Portal or via e-mail is valid** based on the **Judgement given by Kerala High Court.**

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication

## **Order served on GST Portal or via e-mail is valid**

<b>Name of Petitioner</b>	Pee Bee Enterprises
<b>Name of Respondent</b>	Assistant Commissioner
<b>Court</b>	Kerala High Court
<b>Date of Judgement</b>	17.08.2020
<b>Order No.</b>	WP(C). No. 14376 OF 2020(V)

### **Facts of the Case:**

The assessments pertaining to the months April and May 2019 were completed under Section 62 of the SGST Act on best judgment basis, taking note of the non-filing of returns by the petitioner assessee for the said month.

### **Contention of the Petitioner:**

While the assessment orders are dated 20.8.2019, the petitioner contended that these orders were not served on him till much later and within 30 days from the date of receipt of the orders, he filed the returns as permitted under Section 62 of the SGST Act. He contends, therefore, that the assessment orders have to be treated as withdrawn by virtue of the provisions of Section 62 of the Act.

### **Reply of Respondents:**

The assessment order in ASMT.13 dated 20.8.2019 has been issued by utilizing the option available with the common Portal. While issuing the ASMT. 13. the copy of the ASMT.13 is emailed to the registered email id of the taxable person at once. Her actual issuance of ASMT.13 is 20.8.2019 itself, but the petitioner filed the returns for the period April and May 2019 in GSTR.3B only on 30.10.2019 i.e., with a delay of 71 days. Since the filing is not within 30 days. ASMT.13 cannot be withdrawn and the petitioner is liable to pay the amount as per ASMT. 13 and that was followed with a demand notice in DRC.07.

### **Observations of the Court:**

The Court observed that the service of an order through the web portal is one of the methods of service statutorily prescribed under Section 161(1)(c) and (d) of the SGST Act. If that be so, then the petitioner cannot deny the fact of receipt of the order on 28.9.2019 for the purposes of filing the returns as contemplated under Section 62 of the SGST Act with a view to getting the assessment order withdrawn. In as much as the return filed by the petitioner for the period April and May 2019 was only on 30.10.2019, i.e., 71 days after the date of service of the assessment order through the web portal (20.8.2019), the petitioner cannot aspire to get the benefit of withdrawal of the assessment orders contemplated under Section 62 of the SGST Act.

### **Judgement:**

The assessment orders would therefore have to be held valid and the remedy of the petitioner against the said assessment order can only be through an appeal before the appellate authority under the Act. Demand notices shall be kept in abeyance for a period of one month so as to enable the petitioner to move the appellate authority in the meanwhile and obtain orders of stay in the stay application filed along with the appeal. If the petitioner files the appeal within a period of two weeks from the date of receipt of a copy of this judgment, then the appellate authority shall treat the appeals as filed within time, and proceed to consider the stay applications preferred by the petitioner on merits after hearing the petitioner.

**Suresh Aggarwal, Advocate**

**Compliance & Litigation under GST**

**Address:** House No. 54, Pocket A-3, Sector-5, Rohini- 110085

**Phone:** 91-9810032846; 011 - 45131427

**Email:** sureshagg@gmail.com

**Website:** <http://www.sureshtaxation.com>