

## **Notification extending the period of limitation for issuance of Show Cause Notice upheld**

The Hon'ble Kerala High Court in the case of ***Faizal Traders Private Limited v. Deputy Commissioner, Central Tax and Central Excise, Palakkad [WP (C) No. 24810 of 2023 dated February 07, 2024]*** wherein the Hon'ble High Court upheld the Notifications relating to extending the period of limitation to COVID-19 for issuance of Show Cause Notice by invoking the powers under Section 168A of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**).

### **Facts:**

Faizal Traders Private Limited (**"the Petitioner"**) is engaged in the IHK Service to the southern railway and supply of Top-up Coupon and Recharge Coupon of M/s. BSNL as Franchisee. The Petitioner challenged the assessment order-in-original dated June 21, 2023 (**"the Impugned Order"**) by way of filing writ petition on the ground that, the Impugned Order is barred by the limitation. The Petitioner also challenged *Notification No. 13/2022-Central Tax dated July 05, 2022 and Notification No. 09/2023-Central Tax dated March 31, 2023* (**"the Impugned Notifications"**) whereby the time limit for the Revenue Department (**"the Respondent"**) for issuance of Show Cause Notice was extended.

### **Issue:**

Whether Department is empowered to issue Notifications for extending the period of limitation under Section 168A of the CGST Act due to COVID-19 for issuance of Show Cause Notice?

### **Held:**

The Hon'ble Kerala High Court in ***WP (C) No. 24810 of 2023*** held as under:

- Observed that, the Impugned Notifications were issued by the Central Government based on the recommendations of the GST Council relating to the effect of COVID-19 pandemic as the Department had to work with reduced staff.
- Noted that, based on the recommendation, the limitation under Section 73 of the CGST Act was extended relating to FY 2017-2018 for issuance of order in relation to demand with respect to the due date of annual return till September 30, 2023 as per the powers envisaged under Section 168A of the CGST Act, 2017.
- Opined that, the Government is empowered to extend the limitation period for conducting the proceeding under Section 73 of the CGST Act by issuance of Impugned Notifications under Section 168 of the CGST Act as the COVID-19 is a force majeure event.
- Held that, the writ petition is dismissed with respect to challenging the Impugned Notification.

**Our Comments:**

- The Petitioner filed an appeal against the Impugned Order which is listed before the Division Bench of the Hon'ble Kerala High Court in the case of ***Faizal Traders Private Limited v. Deputy Commissioner, Central Tax and Central Excise, Palakkad [WA No. 393 of 2024]***. The Petitioner in the aforesaid case has prayed for stay on operation of the which is listed for further hearing on July 26, 2024.
- it is pertinent to mention here that the proceedings related to issue discussed in the aforesaid case is pending before various other High Courts wherein the Impugned Notifications and other related Notifications extending the time period for issuance of SCN has been challenged on the ground that there were no restrictions or challenges posed by COVID-19 and therefore, Impugned Notifications could not be issued by relying upon the powers enumerated under Section 168A of the CGST Act.

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(Author can be reached at [info@a2ztaxcorp.com](mailto:info@a2ztaxcorp.com))

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