

GOVERNMENT OF ASSAM
OFFICE OF THE PRINCIPAL COMMISSIONER OF STATE TAX
CUM COMMISSIONER OF TAXES, ASSAM
KAR BHAWAN :: DISPUR, GUWAHATI-6

CIRCULAR NO. 110/2021-GST

Dated Dispur the 29th July, 2021.

Subject: Clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27.04.2021.

No. CT/GST-15/2017/495.— The Government has issued notifications under Section 168A of the Assam GST Act, 2017, wherein the time limit for completion of various actions, by any authority or by any person, under the Assam GST Act, which falls during the specified period, has been extended up to a specific date, subject to some exceptions as specified in the said notifications. In this context, various representations have been received seeking clarification regarding the cognizance for extension of limitation in terms of Hon'ble Supreme Court Order dated 27.04.2021 in Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020 under the GST law. The issues have been examined and to ensure uniformity in the implementation of the provisions of law across the field formations, the Principal Commissioner of State Tax, Assam, in exercise of its powers conferred by section 168 of the Assam Goods and Services Tax Act, 2017 (hereinafter referred to as "Assam GST Act"), hereby clarifies the issues detailed hereunder:

2.1 The extract of the Hon'ble Supreme order dated 27th April 2021 is reproduced below for reference:

"We, therefore, restore the order dated 23rd March, 2020 and in continuation of the order dated 8th March, 2021 direct that the period(s) of limitation, as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

It is further clarified that the period from 14th March, 2021 till further orders shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

We have passed this order in exercise of our powers under Article 142 read with Article 141 of the Constitution of India. Hence it shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and Authorities."

2.2 The matter of extension of period of limitation under Section 168A of the Assam GST Act, 2017 was deliberated in the 43rd Meeting of GST Council. Council, while providing various relaxations in the compliances for taxpayers, also recommended that wherever the timelines for actions have been extended by the Hon'ble Supreme Court, the same would apply.

3. Accordingly, legal opinion was solicited regarding applicability of the order of the Hon'ble Supreme Court to the limitations of time lines under GST Law. The matter has been examined on the basis of the legal opinion received in the matter. The following is observed as per the legal opinion:-

- (i) The extension granted by Hon'ble Supreme Court order applies only to quasi-judicial and judicial matters relating to petitions/ applications/ suits/ appeals/ all other proceedings. All other proceedings should be understood in the nature of the earlier used expressions but can be quasi-judicial proceedings. Hon'ble Supreme Court has stepped into to grant extensions only with reference to judicial and quasi-judicial proceedings in the nature of appeals/ suits/ petitions etc. and has not extended it to every action or proceeding under the Assam GST Act.
- (ii) For the purpose of counting the period(s) of limitation for filing of appeals before any appellate authority under the GST Law, the limitation stands extended till further orders as ordered by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) 3 of 2020 *vide* order dated 27th April 2021. Thus, as on date, the Orders of the Hon'ble Supreme Court apply to appeals, reviews, revisions etc., and not to original adjudication.
- (iii) Various Orders and extensions passed by the Hon'ble Supreme Court would apply only to acts and actions which are in nature of judicial, including quasi-judicial exercise of power and discretion. Even under this category, Hon'ble Supreme Court Order, applies only to a lis which needs to be pursued within a time frame fixed by the respective statutes.
- (iv) Wherever proceedings are pending, judicial or quasi-judicial which requires to be heard and disposed of, cannot come to a standstill by virtue of these extension orders. Those cases need to be adjudicated or disposed of either physically or through the virtual mode based on the prevailing policies and practices besides instructions if any.
- (v) The following actions such as scrutiny of returns, issuance of summons, search, enquiry or investigations and even consequential arrest in accordance with GST law would not be covered by the judgment of the Hon'ble Supreme Court.
- (vi) As regards issuance of show cause notice, granting time for replies and passing orders, the present Orders of the Hon'ble Supreme Court may not cover them even though they are quasi-judicial proceedings as the same has only been made applicable to matters relating to petitions/applications/suits, etc.

4. On the basis of the legal opinion, it is hereby clarified that various actions/compliances under GST can be broadly categorised as follows: -

- (a) **Proceedings that need to be initiated or compliances that need to be done by the taxpayers:-** These actions would continue to be governed only by the statutory mechanism and time limit provided/ extensions granted under the statute itself. Various Orders of the Hon'ble Supreme Court would not apply to the said proceedings/ compliances on part of the taxpayers.
- (b) **Quasi-Judicial proceedings by tax authorities:-**

The tax authorities can continue to hear and dispose of proceedings where they are performing the functions as quasi-judicial authority. This may *inter-alia* include disposal of application for refund, application for revocation of cancellation of registration, adjudication proceedings of demand notices, etc.

Similarly, appeals which are filed and are pending, can continue to be heard and disposed off and the same will be governed by those extensions of time granted by the statutes or notifications, if any.

(c) **Appeals by taxpayers/ tax authorities against any quasi- judicial order:-**

Wherever any appeal is required to filed before Joint Commissioner of State Tax (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, the time line for the same would stand extended as per the Hon'ble Supreme Court's order.

5. In other words, the extension of timelines granted by Hon'ble Supreme Court *vide* its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint Commissioner of State Tax (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws.
6. This Circular is clarificatory in nature and not meant for any interpretation of provisions of the Act and rules.
7. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Commissioner at an early date.
8. This Circular shall be deemed to have been issued on 20th July, 2021.

Sd/= Rakesh Agarwala, IAS.,
Principal Commissioner of State tax, Assam,
Dispur, Guwahati

Memo No. CT/GST-15/2017/495-A

Dated Dispur the 29th July, 2021.

Copy to :

1. The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Commissioner of Central GST, Guwahati / Dibrugarh for information.
3. The Special Commissioner of State tax (All) / Additional Commissioner of State tax (All)/ Joint Commissioner of State tax (All) / Deputy Commissioner of State tax (All) / Assistant Commissioner of State tax (All) / Superintendent of State tax (All) for information and necessary action.
4. The Information Technology Officer, Office of the Commissioner of State tax, Assam for uploading it on the website of the Commissionerate for information of all concerned.



Principal Commissioner of State tax, Assam,
Dispur, Guwahati