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TIME LIMIT FOR COMPLIANCES AND TO ISSUE SHOW CAUSE NOTICE & FILING APPEALS

UNDER GST LAW & SERVICE TAX/CENTRAL EXCISE/CUSTOMS LAW

Brief Discussion in light of Apex Court Judgement & CBIC Circular dated 20.07.2021

1. The Hon'ble Supreme Court vide order dated 23.03.2020 has directed that the period of limitation in filing **petitions/ applications/ suits/ appeals/ all other proceedings**, irrespective of the period of limitation prescribed under the general or special laws, shall stand extended with effect from 15.03.2020 till further orders.
2. Although the Hon'ble Court has ended the above extension vide it's order dated 08.03.2021, however after observing surge in Covid cases in Delhi during 2nd wave, the Hon'ble Supreme Court vide order dated 27.04.2021 has restored it's order dated 23.03.2020 and directed 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.
3. The Government of India from time to time has extended the dates of various compliances under GST Law due to Covid pandemic.
4. An ambiguity has arisen among stakeholders and two School of Thoughts are developed regarding limitation period of compliances under GST Law like filing of **Refund Claim Application**, issuance of Show Cause Notice by department etc.
5. Now, CBIC vide it's Circular dated 20.07.2021 has clarified as under:

(a) Proceedings that need to be initiated or compliances that need to be done by the taxpayers: - To be done as per time limit provided under GST Law and extended from time to time by Government.

(b) Quasi-Judicial proceedings by tax authorities: -

- *The tax authorities can continue to hear and dispose off 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/ Additional Commissioner (Appeals),*
- *Commissioner (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.

Author's Comment

6. As far as limitation of compliances upto the stage of adjudication level is concerned, one must comply with the limitation provided under the respective Law to avoid unnecessary complexity and litigation. However, if genuinely due to Covid reasons one is not able to comply within permissible period, one may pursue their case and hopefully authorities/Courts will give relief and condone the delay based on facts and reasons of each particular case.

7. Above clarification through CBIC circular dated 20.07.2021 can be applied under Customs/ Central Excise/ Service Tax Law. Thus, where the Show Cause Notices are not issued within the time limit of 30 months/ 5 Years (after including the extended time limit by Govt.), the same shall be time barred.

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