

IN THE GOODS AND SERVICE TAX TRIBUNAL, G S T
BHAWAN, NEW DELHI

IN THE MATTER OF:

M/S KALPAM ASSOCIATES,

KHARI BOALI, DELHI

.....

Appellant

Vs.

THE COMMISSIONER OF

STATE GOODS AND SERVICES TAX,

GST BHAWAN, I.P. ESTATE, NEW DELHI

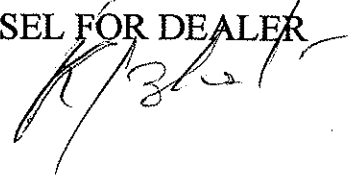
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Respondent

INDEX

SL. NO.	PARTICULARS	PAGE NOS.
1.	APPEAL UNDER SECTION 112 READ WITH SECTION 29(2) OF CGST ACT DGST ACT, READ WITH SECTION 29 OF DGST ACT 2017	1-15
2.	ANNEXURE-1 TO ANNEXURE 11	16-34
3.	APPLICATION FOR CONDONATION OF DELAY IN FILING APPEAL.	35-39
4.	APPLICATION FOR STAY OF RECOVERY PROCEEDINGS.	40-45
5.	VAKALATNAMA	46

COUNSEL FOR DEALER



PLACE:

DATE:

7

IN THE GOODS AND SERVICE TAX TRIBUNAL,G S T

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IN THE MATTER OF:

M/S KALPAM ASSOCIATES,

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Appellant

Vs.

THE COMMISSIONER OF

STATE GOODS AND SERVICES TAX,

GST BHAWAN,I.P.ESTATE, NEW DELHI

...

Respondent

**APPEAL UNDER SECTION 112 READ WITH
SECTION 29(2) OF CGST ACT DGST ACT, READ
WITH SECTION 29 OF DGST ACT 2017- AGAINST
THE ORDER DT. 25.03.2025 PASSED BY THE JOINT
COMMISSIONER OF DGST ACT FOR
CANCELLATION OF THE REGISTRATION
CERTIFICATE RETROSPECTIVELY FOR NOT
FILING RETURNS AND FLOUTING THE**

**CONDITIONS UNDER SECTION 10 OF THE DGST
ACT2017.**

To,

**THE HON'BLE CHAIRMAN AND
MEMBERS OF THE TRIBUNAL,**

The GOODS AND SERVICES APPLATE TRIBUNAL,

May it please your Lordships

Most respectfully, this petition showeth as under: -

Brief Facts relevant for the Present Appeal are as under:

1. The appellant is a registered taxable person of Zone-12, since 01.07.2017. The Appeal is filed within time and the required conditions for filing the appeal have been satisfied. All the copies annexed as per index are the true copies of the originals.
2. There is no amount in dispute as this is case of cancellation. The required conditions for filing the appeal have been satisfied. The order is appealable as per law.
3. Requisite fee for filing the appeal as per Rule 112(5) has been deposited. Since there is no disputed demand hence there is no mandatory pre-deposit required.

STATEMENT OF FACTS

1. That the appellant is proprietorship concern registered with the Department since 01.07-2017.and the appellant continues to work from the business address given at the time of registration.
2. That the appellant is a composition dealer under section 10,dealing in plastic items and filing his returns regularly as prescribed under GST Act,2017.
3. That the registered person is not governed by section 29(2) (c) but 29(2)(b) being a composition dealer.
4. That a notice dated 07.10.2024, annexed as ANNEXURE -1was issued by the proper officer alleging cancellation of GST registration certificate on the grounds of non-filing of returns and contravention of the conditions of the section 10,composition scheme.
5. That the Department conducted a so-calledverificationof the business premises unknown to the proprietor, the date and time of the verification was not conveyed to the dealer and found that the firm does not have a proper signboard as required for a composition dealer and the invoices are not as per requirement under section 10 of the Act.
6. That it was alleged that the composition dealer has made interstate sales which is not permissible for a composition dealer.

- 4
7. These grounds too have been taken into consideration to cancel the registration certificate of the appellant.
 8. The appellant filed reply online on 31.10.2024, copy of which is annexed as **Annexure-2** to this appeal petition along with show cause notice issued.
 9. The proper officer has now cancelled the GST registration on 12.11.2024 and is also going to initiate proceedings under Section 74 for recovery of tax, interest and penalty, annexed as Annexure-3
 10. That the appellant aggrieved with the said order filed an appeal before the first Appellate Authority on 12.01.2025 which met the same fate. copy of order annexed as **Annexure -4**
 11. Feeling aggrieved against the orders passed by the lower authorities, the appellant has filed the appeal before this Hon'ble Tribunal challenging the actions and orders dated 25.03.2025 passed by the first appellate authority.
 12. **The two questions before this Hon'ble Tribunal are**
 1. Whether the Proper Officer can cancel registration for non-filing of intimation in Form CMP-o8? and
 2. Whether on mere allegation of having flouted the conditions of section 10 of composition scheme Registration certificate can be cancelled simultaneously?

GROUNDS OF APPEAL

1. That the impugned order under appeal is bad in law, facts and circumstances of the case.
2. That the notice dt.07.10.2024 is vague and cryptic and not specifying the specific default of the dealer, taxable person. A notice for a period which is yet to come, how can returns be filed for that period for which nothing has been done or thought to be done. The taxable person is yet to file his annual return which falls due on 30th of April, 2025. Thus, the date given in the notice i.e August'2025 is an imaginary date and shows how casual the department is dealing with the dealers and issued notice without application of mind. There was a similar instance before the Hon'ble High Court which we had challenged in the case of Hello furniture's, reported in the name of **Bhumika Enterprises**, wherein the Department of Trade and Taxes issued a circular for following the contents and filing of the returns for a date which was yet to come. The relevant para of the said judgment is produced as under:

“Ongoing through the above circular, we find that a direction has been given for system generated orders. This is clearly in

6

the teeth of our directions given earlier. Consequently, this circular is also quashed. Interestingly, before we part with this discussion of this circular, we note that the default assessment orders for the late filing of returns for the financial year 2015-16 for the fourth quarter is given as 30.09.2015 when the fourth quarter itself begins in January 2016. We deprecate such kind of mindless orders and circulars which has been issued by the respondent / Department."

As a result, all the notices under Section 59(2). Copy of the judgment is enclosed as **Annexure-5**.

3. That the Appellant was not able to deposit and file the quarterly details of tax in CMP-08 due to his bad health, was short of cash flow and non-availability of the part-time accountant who does his accounting and return filing job. Since the turnover is not much and not so profitable, employing a permanent accountant is not possible. The dealer has already deposited some tax and is in process of depositing the rest shortly. More so the dealer is not liable to file quarterly returns but an intimation of taxes paid is to be filed in CMP-08 (**Annexure-6**) and which is not a return, thus the notice for cancellation is void ab-initio. Reference can be made

7

to section 44 and Rule 62. Provision of Late fee has been made for filing of returns as well as intimation, under section 47(2) of the Act for those dealers who must file their returns under section 44. Thus, cancellation of registration is unjustified and illegal.

4. That the so-called notice issued was devoid of facts and it proposed to cancel the registration retrospectively without any legal ground as propounded in section 29 of the GST Act. That the Ld. proper Officer failed to appreciate that the conditions for rejecting the registration has to be specific, mention of Section, sub section and also clause under which the notice is put to the notice, to explain as to why action cannot be taken. Reference is made in Supreme Court judgment in Amrit Foods case, SC 190 ELT 433, copy annexed as **ANNEXURE-7**. The act and rules provide a set procedure as to how and when such proceedings can be taken and the procedure laid for issuance of notices has not been followed by the Proper Officer as such the order is liable to be quashed on that account also. Reference is made to Apex Court judgment in Babu Verghese Case, AIR 1999 SC 1281, copy annexed as **ANNEXURE-8**.
5. That it is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any Statute, the act

must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor vs. Taylor (1875) 1 Ch.D 426 which was followed by Lord Roche in Nazir Ahmad vs. King Emperor 63 Indian Appeals 372 = AIR 1936 PC 253 who stated as under :

"Where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all."

6. That the show cause notice did not specifically mention the grounds as per law required to be for cancellation of registration. Simply writing that you have not filed returns since 2025 is the contravention of section 29 of the DGST Act may result in cancellation of your registration retrospectively is not justified in view of the set principles of law.
7. THAT the Ld. Proper Officer has not been able to understand that the composition dealer does not file GSTR-1 but GSTR-4 for his annual turnover and how he has reached to the conclusion that interstate supplies have been conducted is not known as no document has been put on record or shown to the dealer. The so-called Show cause notice being foundation of the adjudication, the Ld. Officer has not constructed the facts on firm basis and proper evidence, for cancellation of registration but on the surmises and

the so flimsy grounds, thus the order needs to be set aside or quashed.

8. That the Ld. Proper Officer has not been justified in reporting that the dealer has not put a proper notice board at the place of business premises nor do the invoices have a mention of being a composition dealer. The dealer has put his sign board with proper marking of composition dealer which is slightly on higher level of the shop, because there being no place to fix it above the shop or on the right or left. However, a print out of the signboard has been pasted on the door of the shop which has not taken note of by the visiting person who has made verification report. copy annexed as **ANNEXURE-9.**

That the Appellant has mentioned the required line regarding composition on the invoice but it is not complete replica of the same as is mentioned in the Act and Rule 5(1)(f & g) but due to ignorance has only put the words "COMPOSITION TAXABLE PERSON". Which I suppose carries the same meaning not eligible to collect tax on supplies. The fault or default seems to be a minor and procedural one which could have been rectified by levying a minimal penalty as a deterrent for the future, and registered taxable

person saved from the agony of cancellation. copy annexed as **ANNEXURE-10.**

9. That the appellant is not so well versed with the complexities of the Act/Rules and having complied all the necessary conditions, his status as composition dealer should not be denied or taken away by cancellation of his registration and made to pay the tax, interest and penalty on the whole turnover from the first day of the year, which shall topsyturvy his whole business and will be left with no means to earn his livelihood. This cannot be the intention of the legislature. Merely by writing that the appellant has not done this or that without any evidence shall not make him liable for such a harsh action.
10. That the show cause notice did not mention time and place and was not given a chance to plead before retrospective cancellation. There is a set procedure for issuance of notice to return defaulters under section 46 read with Rule 68, for not filing the returns. The composition dealer is liable to pay late fee under section 47 for filing the returns late thus it does not call for cancellation of registration and the impugned order is liable to be quashed. Thus, for non-filing of a return/intimation the taxable persons registration cannot be cancelled. This is not so light a punishment for a petty

dealer who hardly earns his bread and butter. It is because of these unjustified actions the small traders have to approach the Hon'ble Tribunal after incurring heavy expenses.

11. That a literal interpretation of Section 29(2)(b) suggests that if a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return, shall make him liable to action under the said section. The business of the appellant should not be ordered to be closed, and thus, courts have consistently held that registration should not be cancelled retrospectively without valid reasons. The Delhi High Court, in *Ashish Garg Proprietor Shri Radhey Traders v. Commr. (SGST) and Roxy Enterprises v. Union of India*, emphasized that cancellation of registration with retrospective effect must be based on objective criteria. Merely failing to file returns for six months does not justify cancelling registration with retrospective effect for periods during which the taxpayer was compliant. Retrospective cancellation of registration must only apply from the date of business closure or any other objective reason that warrants such action.

12. That the Proper Officer is empowered to cancel GST Registration with retrospective effect only when the criteria outlined in Section 29(2) of the CGST Act are met. It is crucial for the Proper Officer to independently reach the satisfaction set out in subsection (1) or (2) of Section 29 of the CGST Act. In the judgment of Union of India Ors. v. Bharat Forge Ltd. &Anr. [(1970) 1 SCC 795] and Kritika Agarwal v. Union of India &Ors., [W.P. (C) 9424/2023 dated July 18, 2023], further noted that, the Proper Officer has to act independently and cannot act mechanically on the instructions of another authority. The cancellation of the GST Registration of a taxpayer has wide implications for the taxpayer and has the propensity of bringing the taxpayer's business to a standstill. It could never be the intention of the legislature to exclude persons from carrying on legitimate business.

Thus, the measure of cancellation of GST must be exercised with circumspection and only in cases, where it is necessary. Liability to pay tax has always to be imposed by law, it cannot be imposed on the admission, is settled law under Article 265 of the constitution of India.

13. That it was incumbent upon the Department to have verified the

correctness of averments made in the application and then pass a legitimate and fair order. But both the authorities below have failed to follow the due process of law and without affording a proper opportunity cancelled the registration retrospectively. Thus, Cancellation of registration retrospectively is not justified and needs to be quashed, in view of the Gujrat high court judgment in Sugna Cut Piece, copy annexed as ANNEXURE-11.

14. That the appellant has not made any interstate supply but he had made one invoice in which the customer wanted a delivery outside the NCT Delhi which was denied being a composition dealer and the said bill was cancelled and both the original and duplicate bills are enclosed for perusal but as the appellant does not know much of about the accounts a simple statemen of reversal of entry was made before the authority below, which was made the basis of termination of composition status. But before passing such an order the Ld. Appellate authority also did not provide an opportunity to explain the fact of the bills and the said transactions. On scrutiny of the accounts it will be found that no interstate supply has been made. The Ld.proper officer as well as the Ld. Appellate authority have not put on record any proof to justify the action and merely on the statement of the Inspector have allegedly framed the rejection

order. The scheme for small traders though made for ease of doing business but executed so harshly.

15. That in view of the facts of the case there seems no independent opinion or belief of the proper officer but based on hearsay information, taken an action unjustified in law. Cancellation of registration is akin to capital punishment for traders held by Madras high Court.
16. That the appellant respectfully seeks leave to add, amend, modify, or withdraw documents, and to introduce additional evidence relating to any grounds of appeal during the course of the hearing.

PRAYERS

- 1) In view of the above factual and legal matrix the appellant respectfully prays that the registration certificate of the appellant be restored to its original number;
- 2) Pending disposal of this appeal the proceedings under section 74 or any other action for coercive recovery of demands if raised, may kindly be directed to be deferred/stayed;
- 3) Any other order as this Hon'ble Tribunal may find fit and proper be also allowed in favour of the appellant

APPELLANT
THROUGH

COUNSEL

VERIFICATION

I, XYZ, aged about 70 years S/o ABC, the above-named deponent do hereby verify and state that the contents of the my above affidavit are true and correct to the best of my knowledge and no part of it is false and nothing has been concealed therefrom.

Verified on this..... day of April, 2025 at New Delhi.



APPELLANT

Annexure-I
76

BEFORE THE ASSISTANT COMMISSIONER ZONE 12 GST DEPTT NEW DELHI

IN THE MATTER OF: KALPAM ASSOCIATES, KHARI BAOLI, DELHI

GSTIN NO...

DIN NO.XXXXXXXXXX DATED 7.10.2024

Whereas you are a registered taxpayer paying tax in accordance Section 10 of the DGST Act.

Whereas you have not filed returns since AUGUST 2025 and this contravenes the provisions of Section 29 of the DGST Act and may result in cancellation of your registration certificates retrospectively.

Also on a physical verification of your business premises and as per GSTR 1 reports filed by you, it is noticed that you have made interstate supplies that is a gross violation of provisions of Section 10 under which you pay the composition tax.

Also at your business premises did not clearly display that you are a composition dealer nor your invoices show the same which is mandatory.

In view of the above please show cause as to why your registration be not cancelled retrospectively for not filing returns and also why should your registration certificates be not cancelled retrospectively for violating the conditions prescribed under Elton 10 of the DGST Act and differential tax recovered from you with interest and penalty as per law.,

Your reply to this show cause notice must reach the under signed within a period of 15 days from the date of this notice and also your physical presence with your lawyer, if any, also required on that day by way of personal hearing in the matter. Any default shall result in adjudication without your presence and without any further notice to you.

digitally signed

Assistant Commissioner

Zone 12

Annexure 2
17

BEFORE THE ASSISTANT COMMISSIONER ZONE 12 GST DEPTT
NEW DELHI

31.10.24

IN THE MATTER OF: KALPAM ASSOCIATES, KHARI BOALI, DELHI

GSTIN NO...

Sir,

Reply to your show cause notice dated 7.10.24. With your permission we are filing the reply a little late due to ill health of the proprietor who was unable to guide the reply.

2. Yes there are a few returns that are filed late or not filed but this is due to ill health of the proprietor and for no other reason. We are in the process of filing the backlog returns and pay the tax with applicable interest soon within a next fort-night.

3. Regarding interstate supply please note there were just only two transactions that were reversed by us and materials taking back next month and hence there is NIL interstate supply reported on the date of your notice. Hence, we have not violated any condition.

4. We have already put up the proper board with Composition Dealer written prominently. Similar on our invoices the same condition has been put after you visit. These are procedural lapses that should not result such a heavy penalty like cancellation of our registration certificates,

In view of the above please drop the show case notice.

FOR KALPAM ASSOCIATES

PROPRIETOR

Ann - 3
181

BEFORE THE ASSISTANT COMMISSIONER ZONE 12, GST DEPTT
NEW DELHI

DIN NO.

12.11.24

IN THE MATTER OF: KALPAM ASSOCIATES, KHARI BAOLI
NEW DELHI

GSTIN

**ADJUDICATION ORDER UNDER SECTION 29 OF THE DGST
ACT**

The dealer is engaged in trading of plastic goods and has been registered to pay tax as per provisions of Section 10 and subject to such notifications that many have been issued in this regard.

On physical verification of the taxpayer it was found that he is violating various conditions prescribed to be beneficiary of the provisions of Section 10 as described in the show cause notice.

The dealer has admitted these violations but contended that the same have been rectified - for example interstate supplies were being made but when detected the taxpayer as the supply has been cancelled and goods have been returned and hence effectively there is no interstate supply.

I have heard the dealer who has appeared in person without any assistance from any lawyer or CA on 9.12.2024

In my view the default is on the date when it is detected and any subsequent correction cannot cure the default committed. That is just an after thought.,

Since the dealer has committed violation of conditions of section 10 of the DGST Act and has admitted and he has further violated the preconditions of the amnesty scheme in the notifications, he has further committed serious violation.

The registration certificates of the taxpayer is cancelled w.e.f. 11.11. 2017 when he applied for amnesty scheme and he continued and the tax will be record as admitted tax on the entire turnover without any ITC as per process of law.

DIIGITALLY SIGNED
ASSISTANT COMMISSIONER
ZONE 12

Ann 4
19

BEFORE THE JOINT COMMISSIONER(APPEALS) ZONE 12 GST DEPTT NEW DELHI

DIN NO.

12.01..25

IN THE MATTER OF: KALPAM ASSOCIATES
KHARI BAOLI
NEW DELHI

GSTIN

**APPELLATE ORDER UNDER SECTION 107 OF THE DGST ACT AGAINST APPEAL FILED BY
THE DEALER ON 12.1.2025**

The appellant is a person paying taxes as per provisions and notifications issued under Section 10 of the DGST Act - composition schemes.

It has been alleged by the adjudication officer that there has been gross violation of the conditions as prescribed under section 10 of the DGST Act leading to cancellation of the registration of the appellant retrospectively.

The appellant is aggrieved on the ground that his entire business will close, he will face huge tax liabilities and that he has rectified the mistakes after the visit of the officers and after the show cause notice issued.

Admittedly the appellant has not filed returns for a period of six months now and hence he has attracted the provisions of section 29 of the DGST Act and his registration certificate has to be cancelled. The provisions of section 10 being beneficiary provisions need a strict interpretation in law and there is no ambiguity in interpretation of the notification issued under section 10.

Regarding not mentioning composition dealer not entitled to collect tax on the sign board and on invoices is also a serious violation of the conditions of section 10 of the DGST Act.

In view of the above, and after heard the counsel for the appellant Shri V K Bhargav on the above grounds, I am of the view that the order of adjudicating authority does not require any interference and the same is hereby confirmed. The appeal of the appellant is therefore liable to be dismissed and is hereby dismissed.

Digitally signed.
Joint Commissioner(Appeals)
Zone 12

4000-5
20

THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7379/2015 and CM No. 13592/2015

BHUMIKA ENTERPRISES Petitioner

Through: Mr Vasdev Lalwani, Mr S.K. Kapoor and Mr Ravi Chandhok
versus

COMMISSIONER VALUE ADDED TAX & ANR. Respondents

Through: Mr Avtar Singh

HELLO FURNITURE Petitioner

Through: Mr Rajesh Jain, Mr Virag Tiwari and Mr K.J. Bhat

versus

COMMISSIONER OF TRADE & TAXES Respondent

Through: Mr Avtar Singh

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

28.08.2015

The common issue in these writ petitions is with regard to the issuance of notices under Section 59(2) of the Delhi Value Added Tax Act, 2004, which were all system generated on 19.06.2015. By virtue of each of the notices in these petitions, the petitioners were required to produce documents relating to the purchases specified therein in the office of the concerned VATO on 26.06.2015. However, without waiting for 26.06.2015, notices for default assessment of tax and interest and penalty have been

passed on 19.06.2015 itself purportedly by the concerned VATO.

As pointed out by us on an earlier occasion, the two notices read together make out a very depressing story insofar as the functioning of the Department of Trade and Taxes, Government of NCT of Delhi is concerned. We had indicated that, on the one hand, on the same day, a notice for production of records on 26.06.2015 is issued and on the other hand, on that very day, the default assessment notices were issued in which it is stated that the dealer has not filed any reply / satisfactory reply. Apart from the fact that the principles of natural justice have been violated, there is also the serious concern that the notices under Section 59(2) of the DVAT Act as well as the default assessment notices have been 'system generated' and have not, in fact, been 'human generated' by the concerned VATOs. We are now informed by the learned counsel appearing for the Commissioner of Trade and Taxes, Government of NCT of Delhi that all the default assessment notices issued on 19.06.2015 stand withdrawn whereas the notices issued on 19.06.2015 under Section 59(2) stand and have been continued through letters issued on 17.07.2015. We are of the view that since both the notices under Section 59(2) and the default assessment notices were system generated, both the notices have to go. Consequently, the notices under Section 59(2) of the said Act issued on 19.06.2015 in all these matters stand quashed. The letters issued on 17.07.2015 are also quashed.

The learned counsel appearing on behalf of the petitioners have drawn our attention to a circular dated 29.07.2015 issued by the Additional Commissioner (System) on the subject of 'Schedule for system generated orders'. A copy of the said circular is as under:-

"DEPARTMENT OF TRADE AND TAXES, GOVERNMENT OF NCT OF DELHI

21

* YAPAR BHAWAN, I.P. ESTATE, NEW DELHI – 110002 SYSTEM BRANCH

Sub: Schedule for System Generated Orders

Competent authority has decided to carry out the following Assessment /Penalty Orders as per the given Schedule:-

S. No. Subject of Assessment Expected date of Competition of Assessment 1 Review of 2010-11 central assessment orders who have filed from-9; however, assessment framed on the basis of returns. 25.07.2015

2 Penalty assessment orders for late filing of Return for financial year 2014-15 (All Quarter). 30.07.2015

3 Mismatch assessment order for All Quarter of financial year 2014-15. 16.08.2015

4 Assessment for central forms for financial year 2011-12 based on form-09. 25.08.2015

5 Review of 1st – 4th quarters (2014-15) 2A/2B mismatch order. 15.09.2015

6 Assessment of 1st quarter 2015-16 2A/2B Mismatch on 2015-16. 15.09.2015

7 Penalty assessment orders for late filing of return for financial year 2015-16 of 4th Quarter. 30.09.2015

8 Assessment for central form for financial year 2012-13 based on form-09 31.10.2015
(GOVIND JAISWAL)

Addl. Commissioner (System) No. 4435 Dated 29.07.2015

Copy to forwarded to

i) PS to Commissioner

ii) All Spl. Commissioners/Addl. Commissioners/ Joint Commisssoners.

iii) Sales Taxes of Bar Association.

iv) JD (IT) with the request to upload.

v) MD (ICSIL) Administrative Building, Above Post Office, Okhla Industrial Estate, Phase-II, New Delhi – 110020.

vi) Director ESPL.”

This circular has been placed in CM No. 17437/2015 in W.P.(C) 6788/2015.

On going through the above circular, we find that a direction has been given for system generated orders. This is clearly in the teeth of our directions given earlier.

Consequently, this circular is also quashed. Interestingly, before we part with this discussion of this circular, we note that the default assessment orders for the late filing of returns for the financial year 2015-16 for the fourth quarter is given as 30.09.2015 when the fourth quarter itself begins in January 2016. We deprecate such kind of mindless orders and circulars which has been issued by the respondent / Department. As a result all the notices under Section 59(2) issued on 19.06.2015 which were system generated stand quashed. The consequent passed orders thereon are already withdrawn by the letters dated 17.07.2015. The circular dated 29.07.2015 is also quashed.

This, however, does not come in the way of the Department to issue fresh notices under Section 59(2) after application of mind by the concerned VATO and in accordance with law and to take steps pursuant thereto which would also be in accordance with law and would not be system generated notices or orders without human interface.

The writ petitions stand allowed to the aforesaid extent.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

AUGUST 28, 2015

Statement for payment of self-assessed tax

														Financial					
														Year					
														Quarter					
1.	GSTIN																		
2.	(a)	Legal name	<Auto>																
	(b)	Trade name	<Auto>																
	(c)	ARN	<Auto> (After filing)																
	(d)	Date of filing	<Auto> (After filing)																

3. Summary of self-assessed liability

(net of advances, credit and debit notes and any other adjustment due to amendments etc.)

(Amount in ₹ in all tables)

Sr. No.	Description	Value	Integrated tax	Central tax	State/ UT tax	Cess
1	2	3	4	5	6	7
1.	Outward supplies (including exempt supplies)					

24



Case Law

2005 (190) E.L.T. 433 (S.C.)
IN THE SUPREME COURT OF INDIA

Ruma Pal and H.K. Sema, JJ.

AMRIT FOODS

Versus

COMMISSIONER OF CENTRAL EXCISE, U.P.

Civil Appeal No. 1329 of 2003¹ with C.A. No. 7275 of 2003, decided on 26-10-2005

Appeal to Appellate Tribunal - Issue raised before Tribunal was classification of Milk shake mix, Soft serve mix, Coffee creamer and Creamer. Tribunal not addressed itself to various arguments raised by appellants and merely recorded that Commissioner had considered all the points raised by appellants before Tribunal and as such Tribunal find no infirmity in order - HELD : Such disposal of appeal by Tribunal inappropriate particularly when Tribunal is the ultimate fact finding forum - Matter remanded back to Tribunal for disposal on merits - Section 35B of Central Excise Act, 1944. [para 3]

Penalty - Neither show cause notice nor order of Commissioner specifying which particular clause of Rule 173Q of erstwhile Central Excise Rules, 1944 had been allegedly contravened by appellant - Assessee to be put on notice as to exact nature of contravention for which assessee was liable under provisions of Rule 173Q ibid - Rule 25 of Central Excise Rules, 2002 - Tribunal's order upheld. [para 5]

Appeals disposed off

CASES CITED

Collector v. Bakelite Hylam Ltd. — 1997 (91) E.L.T. 13 (S.C.) — Referred [Para 2]
Collector v. Wood Craft Products Ltd. — 1995 (77) E.L.T. 23 (S.C.) — Referred [Para 2]

REPRESENTED BY :

S/Shri S. Ganesh, Sr. Advocate, Ms. Rohina Nath, Javaid Muzaffar and Umesh Kumar Khaitan, Advocates, for the Appellant.

S/Shri Mohan Parasaran, ASG, K. Swami, Rupesh Kumar and P. Parmeswaran, Advocates, for the Respondent.

[Order]. - The question in this appeal is whether the products manufactured by the appellant, namely, "Milk Shake Mix", "Soft Serve Mix". "Coffee