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NEWSFLASH

CBIC issues clarification regarding extension of limitation under GST Law in terms of Hon'ble Supreme Court's Order dated 27 April 2021

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- The Central Board of Indirect Taxes and Customs ('CBIC') has issued Circular No. 157/13/2021-GST dated 20 July 2021 ('Circular') clarifying the application of Supreme Court order dated 27 April 2021 in Miscellaneous Application No. 665/2021 in SMW(C) No. 3/2020 ('SC order').
- The Supreme Court restored its earlier order dated 23 March 2020 directing that in computing the period of limitation in respect of all judicial or quasi-judicial proceedings irrespective of the limitation prescribed, whether condonable or not, the period from 14 March 2021 to till further order shall also stand excluded. This is in view of hardships faced by litigants due to the alarming Covid-19 situation.
- With regards to the above SC order, various representations have been received by the Board on clarifications around the applicability of these extension of limitations and the same deliberated in the 43rd Meeting of GST Council, and subsequently legal opinion was solicited regarding applicability of the SC order to the limitations of timelines under GST Law.
- Basis the above, it is hereby clarified that proceedings that need to be initiated or compliances that need to be done by the taxpayers would continue to be governed by the statutory mechanism and time limit provided/ extensions granted under the statute itself and SC order would not apply.
- It is further clarified that the tax authorities can continue to dispose off Quasi-Judicial proceedings which includes appeals which are filed and are pending, disposal of application for refund, application for revocation of cancellation of registration, adjudication proceedings of demand notices, etc. as given in statute itself and the SC order would not apply.
- The extension of timelines granted by SC order is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (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.

Nangia Andersen LLP's Take

The Clarification issued by CBIC has brought in much need clarity on matters to which extension of timelines granted by Hon'ble Supreme Court (vide its Order dated 27 April 2021) would apply (viz to quasi-judicial and judicial matters relating to petitions/ applications/ suits/ appeals). However, it also states that that extension of timelines would not apply to matters involving summons, scrutiny of returns, search, enquiry or investigations.

While non-applicability of extension in cases of inquiries/ investigations appears correct, it would pose an implementation challenge in case of many assesses operating under a work from home policy, which is the need of the hour. Further, after lifting of the lockdown in various states, sudden increase in issuance of summons/ initiation of inquiries have been observed. As issuance of summons under the GST law are deemed to be judicial proceedings in terms of Indian Penal Code, CBIC's clarification appears to be moving beyond the mandate on this aspect. Further, it has also been observed that attending of a summon proceeding virtually is not the most preferred mode by the Authorities, especially, in case of summons issued by Authorities having PAN India jurisdiction. Thus, fostering of virtual hearings during this time can also go a long way in achieving the desired objective.



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