



Lawgics

By Nidhi, Advocate



Judgment No.: 106
Dt.: 08-04-2024



<https://chat.whatsapp.com/Ie4VxuhvToe76Us7e5>

**CLICK TO JOIN
WHATSAPP GROUP**

Judgment Deals With

Section/Rule	Section 168A
Authority	Gauhati High Court
Case Name	Maina Devi Choraria VS The Union Of India
Dated	02 nd February, 2024

Brief Facts of the Case:

The petitioner has assailed the notification no. 09/2023-CT dated 31.03.2023, by virtue of which the time limit provided under Section 73(10) of the CGST Act for the financial years 2017-18, 2018-19 and 2019-20 was respectively extended to 31.12.2023, 31.03.2024 and 30.06.2024.

It is projected that the time limit in respect of the petitioner for examining the annual return for the financial year 2018-19 had expired on 31.12.2023. However, on the strength of the impugned notification dated 31.03.2023, show-cause notice was issued to the petitioner for the financial year 2018-19 and accordingly, the said notification has been challenged, on the ground that the conditions precedent provided in explanation to Section 168(A) was not present on the date when the notification was issued.

Contention of the CGST Authority:

Relevant extraction of the agenda of 49th CGST council meeting held on 18.02.2023 to project that the issue regarding extension of timelines under Section 73(10) was discussed and recommendation was made for extension of time in view of the situation that prevailed during the Covid-19 period, where employees of the office either could not attend office or they were attending duty on staggered timing. Consequently, there was a huge pile-up of the files for examination and issuance of process for recovery of tax not paid or short paid or input tax credit wrongly availed or utilized during said period. Accordingly, issuance of show-cause notice was fully justified.

Findings & Decision of the Court:

Pursuant to SCN, the petitioner has participated in the proceedings and final order has been passed on 09.02.2024. As final order has already been passed and taking note of the fact that similar issues are being examined by various Courts of the Country, the Court directed that till further orders, the recovery of the amount assessed against the petitioner shall not be enforced. Matter now listed on 10.05.2024.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.