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Judgment No.: 164
Dt.: 01-08-2024



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Judgment Deals With

GST Assessment order was set aside as the CGST Act's assessment time limit was extended for F.Y 2018-19, but no similar extension was made under the DGST Act.

Section/Rule	Section 73, 168A
Authority	Delhi High Court
Case Name	Niva Bupa Health Insurance Company Limited VS Union Of India
Dated	16 th July, 2024
Citation	W.P.(C) 8143/2024 and CM APPL. 33440/2024

Brief facts of the case:

The petitioner has challenged the Order-in-Original dated 29.04.2024 passed by Department on several grounds, including on the premise that the same is without any jurisdiction and without any findings or reasons for imposing the said demand.

The impugned order is barred by limitation. The Show Cause Notice dated 27.12.2023, pursuant to which the impugned order was passed, was also issued beyond the period of limitation. The time limit for assessment under the CGST Act, 2017 was extended; however, no corresponding notification has been issued extending the period of limitation under the Delhi Goods and Services Tax Act, 2017. The petitioner also impugns the Notification No.56/2023-Central Tax dated 28.12.2023, whereby the time limit for issuance of order for the financial year 2018-19 was extended upto 30.04.2024.

The issuance of the impugned notification is not within the scope of powers under Section 168A of the CGST Act since the same was issued after the COVID-19 disruption period had passed, and there were no extenuating circumstances which would warrant issuance of such a notification. The power under Section 168A of the CGST Act can be exercised on the recommendations of the GST Council and only in cases where the action required under the CGST Act could not be complied with, on account of force majeure. Since no force majeure event was subsisting at that time, a notification under Section 168A of the CGST Act could not be issued.

The impugned order is unreasoned and was issued without application of mind. The petitioner had, pursuant to impugned SCN, submitted a detailed reply contesting proposed assessment. The impugned order rejects the contentions advanced by the petitioner in its reply by merely mentioning that the same were "the reply partially not satisfied".

Findings & Decision of the Court:

The impugned order was set aside and the matter was remanded back before the Adjudicating Authority. The Adjudicating Authority shall examine the reply filed by petitioner to the impugned SCN and take an informed decision.

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