

Office of the
Commissioner of State Tax
Maharashtra State, 8th Floor,
GST Bhavan, Mazgaon
Mumbai-400 010.

TRADE CIRCULAR

No. JC (HQ)-5/GST/2023/Appeal/ADM-8 ²²⁵ dated 31 July 2023.

Trade Circular No. 9T of 2023.

To,
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Subject: Clarification in respect of appeal in regard to non-constitution of Appellate Tribunal - reg.

Ref: (1) Maharashtra Goods and Services Tax (Ninth Removal of Difficulties) Order, 2019 dated 06.01.2020.
(2) Trade Circular No.9T of 2020 dt.26.05.2020.

1. Background:

The MGST Department has issued Trade Circular No.9T of 2020.(dt.26.05.2020) giving clarification with regard to certain issues arising out of non- constitution of the Tribunal under the MGST Act.

Recently, the Bombay High Court in the case of M/s. Gulf Oil Lubricants India Ltd vs Joint commissioner of State Tax Appeal-IV, Bandra (WP No.3517/2022) and M/s. T & M Services Consulting vs Joint commissioner of State Tax (W.P. 3823/23) has directed the State Government to consider two measures to reduce the inflow of writ petitions in the Court due to non-constitution of GST Tribunal and also to include the said direction in the order passed by the first Appellate Authority. (dt.26.05.2020)

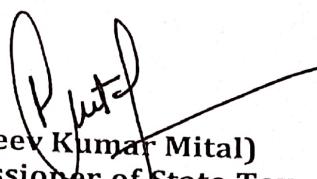
2. The observation of the High Court are reproduced below:-

"Respondent State will consider two measures to reduce the inflow of writ petitions in this Court due to non-constitution of the GST Tribunal. First, to incorporate a stipulation contained in Clause 4.3 and Clause 5 of the Trade Circular dated 26 May 2020 in the order passed by the First Appellate Authority. This will put the tax payer to notice that the time limit for filling the appeal is extended and if a declaration is filed in terms of Annexure-I within the stipulated period, the protective measure would automatically come into force. Second, if recovery is being undertaken in terms of Clause 5 for failure to file a declaration within the time limit, by way of indulgence, to give 15 days period to make such a declaration. The two measures, according to us, will substantially reduce the litigation which has arisen due to the non-constitution of the GST Tribunal."

3. Considering the decisions and directions of the High Court of Judicature at Bombay, all the Appellate Authorities under GST Act have been instructed to mention operative para 4.3 and para 5 of the Trade Circular 9T of 2020 dt. 26th May 2020 in their orders under the MGST Act.

4. All those taxpayers who have not filed the Annexure-I within the stipulated period of 15 days as given in the above Trade Circular are hereby given 15 days from the date of issuance of this circular to file the said annexure. The Annexure-I filed within such extended time period shall be presumed to be filed as provided in above Trade Circular.

5. Difficulty if any, in the implementation of this Circular may be brought to the notice of the office of the Commissioner of State Tax, Maharashtra.


(Rajeev Kumar Mital)
Commissioner of State Tax,
Maharashtra State, Mumbai.

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Copy forwarded to the Joint Commissioner of State Tax (Mahavikas) with a request to upload this Internal Circular on the Departments Web-site.

Copy submitted with compliments to,-

- (a) The Deputy Secretary, Finance Department, Mantralaya, Mumbai-21 for information.
- (b) Accounts Officer, Sales Tax Revenue Audit, Mumbai and Nagpur.
- (c) Under Secretary, Finance Department, Mantralaya, Mumbai.


(Kiran Nandedkar)
Joint Commissioner of State Tax (HQ)-5,
Maharashtra State.