

F.No.276/187/2018-CX.8A Part
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Indirect taxes & Customs)
Legal Cell

Wing 5 'C' HUDCO-VISHALA Building
Bhikaji Cama Place, R.K. Puram
New Delhi, the 20th November'2019

Instruction

To,

1. All Principal Chief Commissioners/ Chief Commissioners of Customs & GST
2. All Principal Director Generals/ Director Generals of Customs & GST
3. <webmaster.cbec@icegate.gov.in>

Sir/Madam,

Sub: Directions by the Hon'ble Courts to dispose the representation by GST Council-reg

The undersigned has been directed to refer to the judgement dated 11.04.2019 (copy available on High Court website) of Hon'ble Kerala High Court in W.A. No. 2061 of 2017 filed against order dated 02.08.2017 in W.P.(C) No. 25613/2017 in the case of M/s Plastic Recycling Industrial Association.

2. The Ld. Single Judge in his judgment dated 02.08.2017 directed the GST Council to "*consider and pass orders on*" the representation submitted by the Petitioner, "*within a period of one month from the date of receipt of a copy of*" the judgement, "*after hearing the parties.*"

3. Subsequently, W.A. No. 2061 of 2017 was preferred before the Ld. Division Bench, and vide order dated 11.04.2019, the Hon'ble Court set aside the impugned judgement dated 02.08.2017. The Hon'ble Court held that on perusal of Article 279A of the Constitution of India, "*it is evident that **there is no mechanism provided in the Constitution** or any other statute for the Goods and Services Tax Council to adjudicate the grievances raised by the general public. There is **no mechanism for consideration and disposal of representations** made by the general public to the Council after conducting personal hearing of the parties who make such representations.*"

4. Accordingly, it is requested that judgment dated 11.04.2019 may kindly be considered before filing any affidavit before the Courts under similar circumstances, and necessary action may be taken to safeguard the interests of UoI/GST Council. Further, the disposed matters, wherein the similar directions have been issued by the High Courts, may be agitated before the appropriate forum, in terms of extant instructions, by following the ratio enunciated by the Hon'ble Kerala High Court in the judgement dated 11.04.2019.

5. The contents of this Instruction may also be brought to the notice of all field formations under your jurisdiction.

Yours faithfully,

(Anish Gupta)
OSD (Legal)

Copy to:

1. Chairman, CBIC, North Block, New Delhi for information.
2. Special Secretary, GST Council Secretariat, Jeevan Bharti Building, Connaught Place, New Delhi, with respect to GSTC Secretariat's OM dated 04.11.2019 vide F.No. 304/2061/2019/PRIA/ GSTC/2018
3. Joint Secretary (Revenue), Department of Revenue, North Block, New Delhi for information.