

Circular No. 6/2022

No. CT/6379/2021-SHQ(I)UNIT1

Dated 06/04/2022

Sub: Kerala State Goods & Services Tax Act, 2017 – detention of goods in the course of transportation on the ground of undervaluation – Judgment of Hon'ble High Court of Kerala – procedure to be followed – instructions issued – reg.

Ref: Judgment of Hon'ble High Court of Kerala in WP(C). No. 30798 of 2019(Y) dated 18.11.2019.

1. The goods belonging to the petitioner in WP(C). No. 30798 of 2019(Y) was detained in a parcel godown by the Intelligence Squad on the ground that the value quoted in the invoice that accompanied the goods was low when compared to the Maximum Retail Price (MRP) and that the HSN code of the goods was wrongly entered. While disposing of the above case, the Hon'ble High Court of Kerala has found that there is no provision under the Goods and Services Tax Act that mandates that the goods shall not be sold at prices below the MRP declared thereon. Also, there is nothing in the GST MOV-06 detention order to show that, on account of the wrong classification, there was any difference in the rate of tax adopted by the assessee. The Hon'ble High Court observed that the respondents cannot resort to arbitrary and statutorily unwarranted detention of goods in the course of transportation. The goods were hence ordered to be released to the petitioner forthwith.
2. Section 15 of the Kerala State Goods and Services Tax Act, 2017, provides common provisions for determining the value of goods and services. The Determination of Value of Supply is provided in Chapter IV of the Kerala State Goods and Services Tax Act, 2017. However, it is noticed that some Intelligence squads had issued detention notices of goods in the course of transport, stating only that the goods were undervalued. These notices get quashed when brought up for litigation before the judicial forums.
3. In the light of the above-said facts and in compliance with the direction of the **Hon'ble High Court of Kerala in WP(C). No. 30798 of 2019 (Y) dated. 18.11.2019**, all concerned are hereby directed not to detain or issue any Show Cause Notice to the goods under

transport or stored in parcel agencies, raising the sole reason for undervaluation of the goods compared to the Maximum Retail Price (MRP).

4. If any undervaluation cases are suspected in such cases, the officers are directed to upload the details of such invoices using the option provided in the Mobile App and send a report to the jurisdictional Officer, marking a copy to the jurisdictional district Joint Commissioner. Further, the intelligence squads shall gather evidence to establish the case by collecting documents about the actual value of the supply. The jurisdictional officer concerned shall verify the same with the help of the report and the uploaded details. Thereafter, the jurisdictional officer of the taxpayer vertical or the Intelligence formation can take further action as provided in the law.

5. The Judgement of Hon'ble High Court of Kerala in WP(C). No. 30798 of 2019(Y) stands complied with.

Sd/-

COMMISSIONER OF STATE TAX