

INDIA LEGAL UPDATE

June 16, 2023

The amount of money recovered by the employer as notice pay is not a transaction taxable under the GST Act

Court:

Supreme Court

Cause Title:

Manapurram Finance Ltd. v.
Assistant Commissioner of
Central Tax and Excise

Judgement Date:

December 12, 2022

Weblink:

[Manapurram Finance Ltd. v.
Assistant Commissioner of
Central Tax and Excise](#)

LEGAL UPDATE

The Kerala High Court in the above case noted that the CBIC has already clarified through [Circular No. 178/10/2022-GST](#), dated August 3, 2022, that any amount recovered by the employer is not as consideration for tolerating the act of premature quitting of employment but as penalties and therefore employer would not be liable to pay "**GST on Notice Pay**". The fact that the Circular was issued only after the issuance of an order of the first appellate authority is no reason to hold that the petitioner is not entitled to the benefits of the Circular.

It is further held that the Circular is binding on Department and since the Circular is clarificatory so it would apply retrospectively. A similar position has been already taken by the Supreme Court in the case of Suchitra Components Ltd. v. Commissioner of Central Excise, (2006) 12 SCC 452.

Therefore, it was held that an order rejecting a refund of GST paid on notice pay received from erstwhile employees was liable to be quashed.

CLOSING REMARKS

The amount of money received as notice pay from erstwhile employees is not a taxable transaction for the purposes of the GST laws; CBIC clarificatory circular shall apply retrospectively.

Queries?

If you have any queries about this article, please reach out to our experts:



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