

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION (L) NO.65 OF 2017

Dr. Kanagasabapathy Sundaram Pillai
Founder, MY "Integrating Society
India Net" NGGO,
Shop No.1 and 2, Kantharia Mansion,
C.S.312, Dharavi Cross Road,
Dharavi, Mumbai 400017

.....Petitioner

Versus

Union Govt. of India,
Through,
The Chairman,
Central Board of Excise and
Customs "CBEC",
New Delhi 110001

.....Respondent

Petitioner present in person.

Mr. Anil C. Singh, Addl. Solicitor General with Mr. P.S.Jetly,
Mr. Sham V. Walve and Ms. Geetika Gandhi, Advocates for
Respondent.

**CORAM : SMT. V.K. TAHILRAMANI, &
SANDEEP K. SHINDE, JJ.**

RESERVED ON : June 29, 2017.

PRONOUNCED ON: July 11, 2017.

JUDGMENT [Per Shri Sandeep K. Shinde, J.] :

The decision of respondent to implement Goods
and Services Tax ('**GST**' for short) with effect from

1.7.2017 is subject matter of challenge in this petition on the following grounds:

- (i) That implementation is without parliamentary sanction and implementation in midst of the financial year, is not valid;
- (ii) That the preparations are not well to adopt the new system as the rates of CGST done recently just a week back for which many representation from the public are not yet replied/rectified;
- (iii) That the States / UTs many are not yet decided, not made laws and not declared their proposed rates, not prepared well for smooth implementations;
- (iv) That the compensation for the first quarter of the financial year not paid apart from the arrears of many aids/schemes/sharing and the states & UTs will become financially critical and unstable.

The petitioner has expressed his concerns in the matter of implementation of acts and extent of implementation of SGST in its model form across the country by States and Union Territories.

Petitioner expressed the doubt as to whether Acts in their current form will be effective in reducing the regulatory and administrative hurdles.

He, therefore, submitted that in the circumstances it is advisable to make an automatic software interfaced with the Trade Tax Automated Bank Account (TTABA) and suggested such other measures for effective implementation of GST.

Petitioner, thus, prayed that implementation of GST be deferred till all legal flaws are removed, and/or till full decision of final rates for all items including State surcharge items preparation is done by all India states and Union Territories.

2 The petitioner has prayed for following reliefs:

- (a) Direct the respondent to defer the implementation till the legal sanction for implementation, the decided rates on all varied commodities etc. is taken from the parliament in Budget session of 2018 in February, 2018 for initiation of the new proposal from 1st April, 2018;
- (b) Direction to utilize the period for the action on anti profiteering laws and on all shell companies, illegal duplicate manufacturing companies, unlawful commercial activities for tax evading/money laundering etc by the records of existing tax system thus preventing escape of those by the pretext in change records in new tax system;
- (c) To give publicity of all procedure to make the traders familiar and they can be given facilities of softwares interfaced with the trade account as per the Tax registration and the licences given for trades & awareness education of public by our NGGO trained Senior citizen volunteers from 2001 census family based as “GST Personal Assistant (GSTPA)” (as in case of Direct Tax “TPA”) at the cost of traders be posted. This will create 50 crore 4-workhours part time volunteers from 2001 census family based under EGS to prevent financial irregularities and help

to achieve less cash/cashless society;

(d) Directing to insist get a dedicated Trade-Bank-Account, KYC based on valid trade licences only not by registration certificates or individual basis for trade.

(e) Education for awareness and informations as to be provided by periodically in medias especially now regarding the new tax system.

3 That to ensure implementation of 101st Amendment to the Constitution of India, the following 4 (Four) Acts were enacted:

- (I) The Central Goods and Services Tax Act, 2017.
- (ii) The Integrated Goods and Services Tax Act, 2017.
- (iii) The Goods and Services Tax (Compensation to States) Act, 2017.
- (iv) The Union Territory Goods and Services Tax Act, 2017 and received presidential assent on 6.4.2017.

In view of the fact aforesaid, contention of the petitioner that decision to implement the aforesaid Acts

from 1.7.2017 is without authority of law lacks substance.

In fact, herein levy and collection of taxes has sanction of law in terms of Article 265 of the Constitution of India.

4 As against this, the learned ASG appearing for the Union of India submitted thus:

(i) Thirty State legislatures have passed the State Goods and Services Tax Act, 2017.

(ii) Necessary rules have been framed and notified.

(iii) Over 65 lakh taxpayers have already migrated to GST network and obtained registrations.

(iv) Rates of taxes have been notified.

(v) GST Seva Kendras have been set up at every Commissionerate, Division and Range. They are answering all questions of the tax payers, and will continue to do so. A Nodal Officer has been designated at each Kendra for this purpose. States are following similar procedure.

(vi) Administrative machinery is in place. Officers of the Central Excise, Service Tax and States Value Added Tax will be implementing GST.

(vii) Everything is now put on the Public Domain.

(viii) 60,000 officers in Central and State Governments have been trained in GST Law. The facts narrated by the learned ASG thus, indicate that respondents have taken all steps to implement New Tax System including to bring awareness amongst citizens.

5 We have perused the petition and the written submissions submitted by the learned ASG. In our view, petitioner cannot urge and/or seek directions to the respondents to postpone the decision to implement GST with effect from 1.7.2017, for simple reason that herein levy and collection of taxes on goods and services has sanction of law. That from written submission, it is much evident that all such necessary steps are taken by the respondents to ensure implementation of the GST, as it appears (i) over 65 Lakhs tax-payers have already migrated to GST network and obtained registrations, (ii) the rates and taxes have been notified; (iii) rules have been framed and notified ; (iv) wide publicity is given in public domain; (v) entire machinery has been geared up not only to accept new challenge but to ensure GST is implemented

effectively.

6 In view of these facts, we are not inclined to entertain PIL and the same is dismissed.

(SANDEEP K. SHINDE, J) (SMT. V.K. TAHILRAMANI, J)