

GIB/KR/PEE BEE/17.08.2020/HC-132

High Court Category : Assessment & Audit

State : Kerala

Order No.: GIB/KR/PEE BEE/17.08.2020/HC-132

Name of Entry :
PEE BEE ENTERPRISES

Date : 17-08-2020

Breif Issue :

Facts & Issue of The Case:

The petitioner Pee Bee Enterprises has approached this Court aggrieved by the assessment orders and consequential demand notices issued him under the GST Act.

In the writ petition it is the case of the petitioner that the assessments pertaining to the months April and May 2019 were completed under Section 62 of the SGST Act on best judgment basis, taking note of the non-filing of returns by the petitioner assessee for the said month.

While the assessment orders are dated 20.8.2019, it is the case of the petitioner that these orders were not served on him till much later and within 30 days after the from the date of receipt of the orders, he filed the returns as permitted under Section 62 of the SGST Act. He contends, therefore, that the assessment orders have to be treated as withdrawn by virtue of the provisions of Section 62 of the Act.

As per the respondent ASMT 13 has been issued dated 20-08-2019 through common portal. Also, a copy of ASMT-13 emailed to the petitioner at once. However, petitioner filed the returns for the period April and May 2019 in GSTR.3B only on 30.10.2019 ie., with a delay of 71 days. Since the filing is not within 30 days. ASMT.13 cannot be withdrawn and the petitioner is liable to pay the amount as per ASMT. 13 and that was followed with a demand notice in DRC.07.

Decision of Advance Ruling Authority :

Decision

1. It was held that the service of an order through the web portal is one of the methods of service statutorily prescribed under Section 161(1)(c) and (d) of the SGST Act.
2. The petitioner cannot deny the fact of receipt of the order on 28.9.2019 for the purposes of filing the returns as contemplated under Section 62 of the SGST Act with a view to getting the assessment order withdrawn.
3. The return filed by the petitioner for the period April and May 2019 was only on 30.10.2019, ie., 71 days after the date of service of the assessment order through the web portal (20.8.2019), the petitioner cannot aspire to get the benefit of withdrawal of the assessment orders contemplated under Section 62 of the SGST Act.
4. The assessment orders would therefore have to be held valid and the remedy of the petitioner against the said assessment order can only be through an appeal before the appellate authority under the Act.