

**GIB/TS/GOLDEN MESH/31.03.2021/HC-228**

**High Court Category :** NON-FILING OF GSTR-3B RETURN

**State :** Telangana

**Order No.:** GIB/TS/GOLDEN MESH/31.03.2021/HC-228

**Name of Entry :**  
GOLDEN MESH INDUSTRIES

**Date :** 31-03-2021

**Breif Issue :**

**FACTS AND ISSUE OF THE CASE:**

This Writ Petition is filed challenging the Assessment Order dt.27-12-2019 passed by the 1st respondent under the Telangana GST Act, 2017 in relation to the petitioner for the tax period November, 2018. It is not in dispute that petitioner did not file GSTR-3B return for the said month of November, 2018 and notice was issued on 29-01-2019 under Section 46 of the Telangana GST Act, 2017 warning the petitioner that if it did not file its return within 15 days, tax liability would be assessed under Section 62 of the Act based on the relevant material available with the 1st respondent along with interest and penalty. Petitioner did not comply with the request to file GSTR-3B return, and best judgment under Section 62 of the Act was made through the impugned order by 1st respondent.

The 1st respondent is entitled to do best judgment in the absence of filing of GSTR-3B, the method adopted by 1st respondent in multiplying by 3 times the monthly SGST tax of Rs.50,000/- to determine the tax liability is arbitrary and not based on any principle. He also contended that 100% penalty has been levied without indicating under which provision of the Act the same has been levied.

**Decision of Advance Ruling Authority :**

**DECISION:**

Since the impugned order appears to be prima facie arbitrary and contrary to the provisions of the Telangana GST Act, 2017, the impugned order is set aside - the matter is remitted back to the 1st respondent for fresh consideration; the 1st respondent shall issue notice to the petitioner indicating the method of assessment under the best judgment assessment provision contained in Section 62 of the said Act; grant a personal hearing to the petitioner.

Petition allowed by way of remand.