

Gauhati HC quashes Notification No. 56/2023, being issued without Council's recommendation

Sep 19, 2024

Gauhati HC allows a batch of writ petitions challenging Notification No. 56/2023 extending time period for issuing demand orders for FY 2018-19 and FY 2019-20, holds the same as ultra vires Section 168A on the ground that the notification was issued without the recommendation of the Council as mandated by the Section; In open Court order, HC observes that, while the notification had false statement claiming that a recommendation was made and the recommendation served as its basis, the Circular issued on May 20, 2024, along with the stand taken in the affidavit, clearly indicates that no such recommendation existed prior to issuance of said Notification; Further, Court states that, notification was merely cleared by the implementation committee, which holds no relevance and that no recommendation was sought during the 50th, 51st, 52nd, or 53rd GST Council meetings; Accordingly, Court held that there is colourable exercise of power by the Government inasmuch as the Notification mentions that it has been issued on the recommendation of the GST council when there exists none.

The order was dictated in open court today by Justice Devashis Baruah.

Advocates Bharat Raichandani a/w Prathamesh Gargate, Annweshaa Laskar and Gautam K Deka (from UBR Legal), Advocate Arun Jain and Others appeared on behalf of the assessee, whereas Revenue was represented by Standing Counsels S.C. Keyal, B. Gogoi.

The information contained in the above alert is source based.

[Click here](#) to read the copy of judgment.

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GSTsutra Note:

- [Notification 56/2023](#) extended the time limit for issuance of order under Section 73(9) for tax recovery for FYs 2018-19 and 2019-20.
- [Punjab & Haryana HC](#) has issued an interim stay on the GST demand against ICICI Bank, in response to a challenge regarding the validity of Notification No. 56/2023-Central Tax.
- [Gauhati HC](#) has also issued notice regarding challenge to the same Notification, after observing that notice "cannot stand scrutiny of law" as it was issued without recommendation of GST Council. The same court also granted [interim relief](#) in challenge to notification extending time period for order issuance.