



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 12650/2019

Sonu Ansari S/o Yashim Ansari, Aged About 45 Years, B/c Muslim, R/o H.No. 4, Ganga Vihar Colony, Street No. 3, Ghalori Gate, Patiyala (Punjab) At Present Residing At 434, Gali No. 7, Baldev Nagar, Jodhpur (Raj).

----Petitioner

Versus

1. Union Of India, Through The Ld. Secretary, Ministry of Finance (Department Of Revenue) No. 137, North Block, New Delhi-110001.
2. The Goods and Service Tax Council (GST Council), Through The Ld. Secretary, Office of The GST Council Secretariat, 5Th Floor, Tower II, Jeevan Bharti Building, Janpath Road, Cannought Place, New Delhi-110001.
3. State of Rajasthan, Notice To Be Served Upon The Ld. Chief Secretary, Finance Department, Secretariat, Jaipur.
4. Central Board of Indirect Taxes And Customs, Department Of Revenue, Ministry of Finance, North Block, New Delhi-110001.

----Respondents

For Petitioner(s) : Mr. Vijay Poonia

HON'BLE MR. JUSTICE SANGEET LODHA

Judgment

11/09/2019

1. By way of this writ petition, the petitioner is seeking directions to the respondents to refund the late fee collected from the petitioner while filing the return under the Central Goods and Service Tax Act, 2017 (for short "the Act") in Form GSTR-3B in his Cash Ledger in GST Portal so that he can utilise the same for discharging his tax liabilities. The petitioner has also questioned the legality of notification No.76/2018 dated 31.12.18, whereby in



exercise of the power conferred by Section 128 of the Act, the amount of late fee payable by the registered person for failure to furnish the return in the Form GSTR-3B for the month of July, 2017 onwards by the due date under Section 47 of the Act, which is in excess of an amount of twenty-five rupees for every day during which such failure continues, has been waived on the conditions specified in the notification.

2. If the petitioner is entitled for the refund of the late fee already deposited, nothing prevented him from making an application claiming the refund to the concerned authority in accordance with law. The petition filed by the petitioner seeking directions as aforesaid for the refund of the amount without approaching the respondents by way of appropriate application/representation, cannot be entertained by this court.

3. Indisputably, the impugned notification is issued by the Central Government in exercise of the power conferred under Section 120 of the Act, which already stands published in the official gazette. The notification issued being a statutory notification, the validity thereof is not open to be examined by the Single Bench. It is always open for the petitioner to file the petition challenging the notification before the Division Bench, if so advised.

4. Accordingly, the writ petition is dismissed with the observations as above.

(SANGEET LODHA),J

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