

Court No. - 1

Case :- WRIT TAX No. - 361 of 2024

Petitioner :- M/S Tenet Networks Private Ltd

Respondent :- Gst Council And 3 Others

Counsel for Petitioner :- Shubham Agrawal

Counsel for Respondent :- A.S.G.I.,C.S.C.,Gaurav Mahajan

Hon'ble Shekhar B. Saraf,J.

1. Heard Sri Shubham Agarwal, counsel appearing on behalf of the petitioner, Sri B.K. Pandey, learned Additional Chief Standing Counsel and Sri Gaurav Mahajan, counsel appearing on behalf of the respondent no.4.

2. Counsel appearing on behalf of the petitioner submits that a notification has been issued bearing No.53/2023-Central Tax by the Central Board of Indirect Taxes and Customs, Ministry of Finance, dated November 2, 2023, wherein the time to file appeal under sub-section (1) of Section 107 of the Central Goods and Services Act, 2017 (hereinafter referred to as the "Act") has been extended till January 31, 2024. He however, submits that this notification only deals with the orders passed under Sections 73 and 74 of the Act and does not take into account the orders passed under Sections 129 and 130 of the Act.

3. Mr. Shubham Agarwal, has argued that it is highly discriminatory as this notification deals only with the orders passed under Sections 73 and 74 of the Act and does not look into the penalty provisions under Sections 129 and 130 of the Act. He submits that these sections should have also been included in the said notification and this lacuna should be looked into by the Government.

4. Upon due consideration, I am of the view that this Court is not in a position to issue a writ of mandamus directing the Central Government to include Sections 129 and 130 of the Act in the said notification. However, I am of the view that the Government can very well consider adding these two Sections in the said notification, so that the benefit that has been provided for the orders passed under Sections 73 and 74 of the Act can be extended to Sections 129 and 130 of the Act.

5. In the light of the above, GST council and the Central Board of Indirect Taxes, Ministry of Finance, is directed to look into this aspect of the matter at the earliest.

6. The matter is adjourned sine die with liberty granted to the counsel appearing on behalf of the petitioner to mention the same at the appropriate time.

7. In the meantime, affidavits be exchanged between the parties.

8. Counsel appearing on behalf of the petitioner is directed to inform about this order in the office of the learned A.S.G.I.

Order Date :- 13.3.2024

Dev/-

(Shekhar B. Saraf,J.)