

No GST on notice pay recovery by employer being not a consideration for tolerating act of premature quitting of employee: HC

Facts of the case - Manappuram Finance Ltd. v. Assistant Commissioner of Central Tax and Excise - [2022] (Kerala)

In the instant case, the issue was whether petitioner-employer liable to pay tax on notice pay received from its former employees. The writ petition was filed by the petitioner against the order of appellate authority which rejected the claim for refund made by the petitioner for a refund of GST paid on notice pay received from the erstwhile employees. It submitted that it had no other remedy since the GST Appellate Tribunal has not been constituted.

Decision of the case :

The Honorable High Court noted that the CBIC has already clarified through Circular No. 178/10/2022-GST, dated 3-8-2022 that amounts recovered by employer not as consideration for tolerating act of such premature quitting of employment but as penalties and therefore employer would not be liable to pay GST on notice pay. The Circular is binding on Department and since Circular is clarificatory in nature so it would apply retrospectively. Therefore, it was held that order rejecting refund of GST paid on notice pay received from erstwhile employees was liable to be quashed.