

# IMPORTANT GST UPDATES



Issued in case of Manappuram Finance Ltd by the Kerala High Court  
WP(C) No. 27373 of 2022 | Date: 07-12-2022

## Ruling

**As the GST Appellate Tribunal is yet to be Constituted, the Petitioner is Entitled to Exercise the Jurisdiction of the High Court.**

**Restores Refund Application for GST Paid on Notice Pay Received From Erstwhile Employees.**

## Observations & Findings

The petitioner, Manappuram Finance Ltd is a non-banking finance company has filed a writ petition challenging an appellate order that deemed them liable to pay GST on notice pay received from former employees. The appellate authority upheld the original authority's decision rejecting the petitioner's claim for a GST refund on notice pay. The petitioner puts forth the argument that, due to the absence of a constituted GST Appellate Tribunal, approaching the court under Article 226 of the Constitution of India is the only available remedy.

The petitioner contends that the issue of GST on notice pay has been addressed in a Circular by the Central Board of Indirect Taxes and Customs dated 03-08-2022. They argue that this Circular should apply retrospectively to all past transactions, citing established legal principles.

The respondent Department argues that the writ petition is not maintainable simply because the GST Appellate Tribunal has not been constituted. They refer to the Central Goods and Service Tax (Ninth Removal of Difficulties) Order, 2019, stating that the limitation for filing an appeal before the GST Appellate Tribunal starts only from the date of its constitution.

Looking into the matter, the court grants relief to the petitioner, emphasizing that the Circular, issued after the appellate order, clarifies existing law and should be applied retrospectively. The court rejects the argument that the petitioner has an effective alternative remedy before the GST Appellate Tribunal, given that it is yet to be formed. Consequently, the court allows the writ petition, quashing the orders and restoring the petitioner's refund applications for reconsideration based on the court's findings.