

## **Payment of Tax and Interest can be made in installments**

The Hon'ble Calcutta High Court in the case of ***Neel Kamal v. Assistant Commissioner, State Tax [Writ Petition Application No. 28930 of 2023 dated January 09, 2024]*** held that the payment of tax and interest can be made in 10 installments considering that the Petitioner was facing financial hardship and the Respondent delayed in detecting revenue dues.

### **Facts:**

Neel Kamal (“**the Petitioner**”) was facing financial hardships due to the Revenue Department's (“**the Respondent**”) delay in detecting a mistake in revenue dues against the Petitioner.

Hence, the present writ petition was filed by the Petitioner, praying for the payment of tax and interest in installments.

### **Issue:**

Whether payment of tax and interest can be made in installments?

### **Held:**

The Calcutta High Court in ***Writ Petition Application No. 28930 of 2023*** held as under:

- Held that, due to the financial hardship of the Petitioner and the delay on the part of the Respondent in detecting such mistake of revenue dues against the Petitioner, the Petitioner can make payment of the tax dues and interest under Section 50 of the Central Goods and Services Tax Act, 2017 (“**the CGST Act**”) in question by way of ten equal installments under the provision of Section 80 of the CGST Act.
- Directed that, each of the installments must be paid within the tenth day of every month and in case of default in any of the installments within the time granted for making payment. This order of installment will lose its force and the Respondent

will be free to proceed against the Petitioners in accordance with the law. Hence, the writ petition was disposed of.

**Our Comment:**

Earlier, in the case of the Hon'ble Gujarat High Court in ***Nirajkumar Nareshkumar Lakhyani v. State of Gujarat [Special civil application no. 6777 of 2023 dated April 27, 2023]*** set aside the order of Adjudicating Authority and allowed the assessee to make payment of tax liability in installments and thereby lifted the provisional attachment of bank account of the assessee.

Further, the Hon'ble Madras High Court in the case of ***Everyday Banking and Retail Assets v. Office of the Assistant Commissioner (ST) [Writ Petition No. 35372 OF 2023 January 03, 2024]*** held that, the Petitioner asserts that all tax dues were settled and that the Petitioner requires time to pay interest. Thus, the Petitioner was allowed to pay interest in respect of four assessment years vide caution notice because the business of the assessee was to be directed to pay amounts of interest demanded in three equal monthly installments.

Under the provisions of Section 80 of the CGST Act, on the application filed by a taxable person, the Commissioner may give an opportunity to the taxpayer to pay due taxes/demand in installments. However, in case of default by the taxpayer in payment of any one installment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

**Relevant Provision:**

***"Section 80 of the CGST Act:***

***Payment of tax and other amount in instalments:***

*80. On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly instalments not exceeding twenty four, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed:*

*Provided that where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.”*

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