

Supreme Court directs the Union of India/GST Council to instruct states on electronic DIN system implementation

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Summary

The Hon'ble Supreme Court (SC) has directed the Union of India /Goods & Service Tax (GST) Council to issue advisory/instructions to the respective states regarding implementing the electronic generation of a Document Identification Number (DIN) system in the indirect tax administration. Besides, the Apex Court also opined that the concerned states consider implementing the system in order to bring in transparency and accountability in the indirect tax administration at the earliest.

Facts of the case

- The petitioner¹, a chartered accountant, has filed a public interest litigation before the SC. It has requested to direct the central government /Central Board of Excise and Customs (CBIC)²/ GST Council to issue directions to the concerned states to implement the DIN system in respect of all communications sent by the State Tax Officers (STO) to taxpayers and concerned persons. Further, the GST council should be directed to consider and take a policy decision in respect of the implementation of the DIN system by all the states.
- The petitioner submitted that the system for the electronic generation of a DIN will increase transparency and accountability in the indirect tax administration, which is the objective of the government.

SC observations and ruling³:

- **Implementation of a system for the electronic generation of DIN:** The SC stated that the implementation of the

DIN system for all the communications sent by the STO would be in interest of the larger public and enhance good governance. Further, it will bring in transparency and accountability in the indirect tax administration. The SC apprised the implementation of this system by the Central Board of Direct Tax (CBDT) and further appreciated the implementation of this system by the states of Karnataka and Kerala in the indirect tax administration.

- **GST Council is empowered to make recommendations to the states:** The SC stated that the GST Council is empowered⁴ to make recommendations to the states on any GST matter. Further, it can also issue advisories to the respective States for implementation of the DIN system to achieve the objective of transparency and accountability. Therefore, the SC directed the Union of India/ GST Council to issue advisory/instructions/ recommendations to the respective states in this regard. Further, the SC impressed upon the concerned states to consider implementing the system so as to bring in transparency and

¹ Pradeep Goyal

² Central Board of Indirect Taxes & Customs

³ Writ Petition (Civil) No. 320 Of 2022, Order dated 18 July 2022

⁴ In view of the implementation of the GST and as per Article 279A of the Constitution of India

accountability in the indirect tax administration at the earliest.

Our comments:

In the digitisation era, the government is emphasising the digitalisation of communications to the taxpayers and other concerned persons to ensure transparency and accountability. The system is already put in place by the CBDT for direct taxes w.e.f. 1 October 2019.

Similarly, in the indirect tax administration, the CBIC has issued circulars⁵ to make it mandatory to generate and quote the DIN on all the communications sent to taxpayers and other concerned persons by any office of the CBIC across the country. Further, any document issued without electronically generated DIN shall be treated as invalid and shall be deemed to have never been issued. However, the circulars issued by the CBIC were under the power conferred under the CGST Act, thus, the state GST departments are not covered under said circulars. In this respect, the SC in the present judgement has directed the Union of India /GST Council to issue advisory / instructions / recommendations to the

⁵ Circular No. 122/41/2019-GST dated 5 November 2019 and Circular No. 128/47/2019-GST dated 23 December 2019

respective states⁶ regarding the implementation of the system of electronic (digital) generation of a DIN.

This is a welcome move in the indirect tax administration and is likely to result in honest administration and will enable the confirmation of the authenticity of communications issued by the state GST authorities. Further, this decision will bring uniformity under the GST administration as the implementation of the DIN system will be equally mandatory for both the central and state GST authorities.

⁶ Already implemented by the states of Karnataka and Kerala

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