

Madras High Court: Not “mandatory” for UOI to release GST compensation to States; Dismisses PIL

Madras HC declines Petitioner’s prayer in Public Interest Litigation (PIL) seeking a direction to UOI to implement section 7 of the Goods and Services Tax (Compensation to States) Act, 2017 (GST Compensation Act) in letter and spirit and release a sum of Rs. 12,250.50 crores to State of Tamil Nadu towards GST shortfall accrued for the period April to August 2020; Rebuts Petitioner’s plea that the word "shall" in section 7 (1) of the GST Compensation Act would mean that the compensation payable to the State shall be provisionally calculated and released at the end of every two months period, and this Court can issue positive orders as said timeline has not been adhered to; Refers to ratio laid down by SC in case of Bachahan Devi wherein interpretation of the words “may” and “shall” came up for consideration; Further, applying the principles propounded by SC in Sharif-ud-Din V. Abdul Gani Lone, Hyundai Motors, Bhavnagar University, holds that “The mere employment of the word "shall" cannot be construed as mandatory in the light of the ratio laid down in the above cited decisions and it depends upon the context and the purpose of the legislative intent also”; Observes that GST Compensation Act “does not deal and speak about the consequences of non-compliance of the time line stipulated under Subsection [2] of Section 7....it can be construed only as directory and not mandatory.”; HC thus quips that, “It is not as if the UOI is not going to compensate the States.....” while hoping that UOI “would take into account the difficulties being faced by the States, especially the State of Tamil Nadu in the light of the contents of the Press Release dated 31.08.2020 issued by the Director of Information and Public Relations, Chennai”: Madras HC