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SC Stays Allahabad HC Ruling Holding That Mere Uploading of GST Notices and Orders on Common Portal Does Not Constitute Valid Communication Under Section 169 of the GST Act



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SUPREME COURT STAYS

SC STAYS ALLAHABAD HC RULING

Mere Uploading of **GST Notices and Orders** on Common Portal Does Not Constitute Valid Communication Under **Section 169** of the GST Act

GST PORTAL

GST NOTICE	✗
GST ORDER	✗
GST NOTICE	✗
GST ORDER	✗

GST ACT 2017

The Hon'ble Supreme Court in *State of Uttar Pradesh & Anr. v. M/s Bambino Agro Industries Ltd. & Anr. [Special Leave Petition (Civil) Diary No. 11683 of 2026 dated May 29, 2026]* stayed the operation of the impugned judgment of the Hon'ble Allahabad High Court which had held that mere uploading of show cause notices and adjudication orders on the GST Common Portal does not amount to valid "communication" under Section 107 of the Central Goods and Services Tax Act, 2017 / Uttar Pradesh Goods and Services Tax Act, 2017 ("CGST Act" / "SGST Act") for triggering the period of limitation to file an appeal, and further held that the deeming fiction of constructive service under Section 169(2) and (3) is not available with respect to service effected through e-mail or through the Common Portal under Section 169(1)(c) and (d). The Hon'ble Supreme Court, while issuing notice returnable after ten weeks, granted stay of the impugned order till the next date of hearing.

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Facts:

M/s Bambino Agro Industries Ltd. (“**the Petitioner**”), along with a batch of other petitioners, filed Writ Tax No. 2707 of 2025 before the Hon’ble Allahabad High Court assailing individual adjudication orders passed against them under Sections 73 and 74 of the UPGST Act, 2017 / CGST Act, 2017. The adjudication orders, together with the preceding show cause notices, had been served exclusively by uploading them on the GST Common Portal maintained by the Goods and Services Tax Network (“**GSTN**”).

The Petitioners contended that since neither the show cause notice nor the adjudication order had been physically served upon them, they acquired knowledge of the orders only when recovery proceedings or other consequential steps were initiated by the revenue authorities. By that time, the hard period of limitation under Section 107(1) read with Section 107(4) of the CGST/SGST Act — i.e. three months for filing appeal plus a maximum of one month for condonation of delay — had already expired, rendering the statutory appellate remedy unavailable.

By judgment dated December 19, 2025, the Hon’ble Allahabad High Court allowed the batch of writ petitions, set aside the impugned adjudication orders subject to deposit of 10% of the disputed demand of tax, and remitted the matters to the Adjudicating Authority for fresh adjudication after due opportunity of hearing. Aggrieved, the State of Uttar Pradesh filed a Special Leave Petition before the Hon’ble Supreme Court.

Issue:

Whether mere uploading of a show cause notice or adjudication order on the GST Common Portal under Section 169(1)(d) of the CGST/SGST Act, 2017 amounts to valid “communication” of such notice or order on the taxable person within the meaning of Section 169 read with Section 107 of the Act, so as to trigger commencement of the limitation period for filing a statutory appeal?

Held:

The Hon’ble Supreme Court in ***SLP (Civil) Diary No. 11683 of 2026***, passed the following order:

- Observed that the impugned judgment was passed by the Hon’ble Allahabad High Court on December 19, 2025 in Writ Tax No. 2707 of 2025 along with connected matters.
- Noted that delay in re-filing / curing the defects was sought to be condoned through IA No. 161870 of 2026.

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- Held that delay stands condoned and notice be issued, returnable after ten weeks.
- Directed that there shall be stay of the impugned order of the Hon'ble Allahabad High Court till the next date of hearing.

Hence, the operation of the Allahabad High Court judgment in the lead matter, *M/s Bambino Agro Industries Ltd. v. State of Uttar Pradesh*, and its precedential effect, remain suspended until further orders of the Hon'ble Supreme Court.

Background — Findings of the Allahabad High Court (Now Stayed):

To appreciate the significance of the Supreme Court's stay order, it is necessary to summarise the principal findings of the Hon'ble Allahabad High Court in *M/s Bambino Agro Industries Ltd. v. State of Uttar Pradesh [Writ Tax No. 2707 of 2025 dated December 19, 2025] (Neutral Citation: 2025:AHC:229995-DB)*, which the Apex Court has now stayed:

- **Modes of Service under Section 169(1):** The Hon'ble High Court held that Section 169(1) prescribes six alternative modes of service — (a) tendering directly or by messenger; (b) by registered post / speed post / courier with acknowledgement due; (c) by sending communication to the registered e-mail; (d) by making it available on the Common Portal; (e) by publication in a newspaper; and (f) by affixation. The first five modes [(a) to (e)] stand on equal footing with no order of priority, and the revenue authorities are at liberty to choose any of them. However, the sixth mode (affixation) can be resorted to only when none of the first five is "practicable".
- **Deeming Fiction Limited to Specified Modes:** The Court held that the deeming fiction of constructive service under sub-sections (2) and (3) of Section 169 is available **only** with respect to service effected through tendering [(a)], speed post with acknowledgement due [part of (b)], publication in newspaper [(e)] and affixation [(f)]. The legislature has consciously omitted modes (c) (e-mail) and (d) (Common Portal) from the scope of the deeming fiction. The fiction cannot be extended beyond what is contemplated by the legislature, applying the principle laid down by the Hon'ble Supreme Court in *State of West Bengal v. Sadan K. Bormal [(2004) 6 SCC 59]*.
- **"Communication" under Section 107 vs "Service" under Section 169:** The Hon'ble High Court emphasised that the legislature has used the word "communicated" in Section 107(1) — and not "served" or "received". "Communication" requires imparting actual or constructive knowledge of the contents of the order to the affected person. Relying on *Raja Harish Chandra Raj Singh v. Deputy Land Acquisition Officer [1961 SCC OnLine SC 140]*, *CCE v. M.M. Rubber & Co. [1992 Supp (1) SCC 471]* and *Madan Lal v. State of*

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U.P. [(1975) 2 SCC 779], the Court reiterated that limitation for filing an appeal begins only from the date the order is effectively communicated to the aggrieved party, either actually or constructively.

- **Limitations of the IT Act, 2000:** The Court accepted the applicability of Sections 4, 12 and 13 of the Information Technology Act, 2000, but clarified that these provisions only deal with “dispatch” and “receipt” of an electronic record — not with “communication” for the purposes of Section 107. Mere “receipt” of an electronic record falls short of “communication” unless an acknowledgement is generated under Section 12 of the IT Act. GSTN admitted that no electronic trail or log exists to verify when a notice or order uploaded on the portal was actually retrieved, opened or viewed by the taxpayer.
- **Procedural Difficulties Noted:** The Court noted that more than 2,300 similar petitions had already been disposed of in terms of *M/s Riya Construction v. State of U.P. [2025:AHC:179271-DB]*, indicating widespread grievance amongst small and medium businesses. It further observed that the Common Portal functions only in English, denying ease of access to a large class of Hindi-speaking taxpayers in Uttar Pradesh, and that unlike the Central revenue authorities which continue to serve physical notices, the State revenue authorities have completely abandoned the offline mode.
- **Final Conclusions:** The Court formulated fifteen conclusions, the most significant being: (i) service through Common Portal or e-mail is a valid procedure but no deemed service arises therefrom; (ii) where a taxpayer files an appeal declaring it within time from the date of actual communication, a presumption arises in his favour and the burden lies on the revenue to prove an earlier date of communication; and (iii) where notice is served both electronically and physically, the date of physical service prevails over electronic service, unless the contrary is proved.

Our Comments:

The Hon’ble Supreme Court’s stay of the Allahabad High Court’s judgment is an interim order. It does not decide the merits of the controversy but temporarily suspends the precedential effect of the impugned ruling. The final adjudication will determine whether mere uploading on the GST Common Portal under Section 169(1)(d), or transmission of an alert through e-mail under Section 169(1)(c), without anything more, is sufficient “communication” for the purpose of Section 107 of the CGST/SGST Act.

Relevant Statutory Framework: Section 169(1) of the CGST Act, 2017 prescribes six alternative modes of service of any decision, order, summons, notice or other communication. Sub-

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section (2) creates a deeming fiction that every such decision, order, summons, notice or communication “shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed” in the manner provided in sub-section (1). Sub-section (3) creates a separate deeming fiction with respect to service by registered post or speed post, namely that it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit, unless the contrary is proved. Section 107(1), in turn, provides that any appeal against an order of the adjudicating authority must be filed within three months “from the date on which the said decision or order is communicated to such person”, with a further condonable period of one month under sub-section (4).

Judgments Favouring the Taxpayer (Pari Materia with the Stayed View): The Hon’ble Madras High Court in *TVL Sri Mathuru Eswarar Traders v. The Deputy State Tax Officer-I [W.P. No. 16787 of 2025]* and in *Mr. Sahulhameed v. The Commercial Tax Officer [W.P. (MD) No. 26481 of 2024]* held that the modes of service under Section 169(1) operate in a hierarchy and that physical modes must be attempted before resorting to portal-based service.

The Hon’ble Allahabad High Court in *M/s Kashi Bartan Bhandar v. State of U.P. [2019 NTN (69) 111]*, *Mahaveer Trading Company v. Deputy Commissioner State Tax [2024:AHC:38820-DB]*, *M/s Shubham Steel Traders v. State of U.P. [2024:AHC:31108-DB]* and *M/s Riya Construction v. State of U.P. [2025:AHC:179271-DB]* have, in similar circumstances, set aside ex parte adjudication orders for violation of the principles of natural justice arising from non-service in the physical mode.

Contrary Judgments Favouring the Revenue: The Hon’ble Delhi High Court in *M/s Mathur Polymers v. Union of India [2025:DHC:7435-DB]* and *Rishi Enterprises v. Additional Commissioner, Central Tax Delhi [2025:DHC:7353-DB]* took a contrary view, holding that uploading of a notice or order on the Common Portal is sufficient compliance with Section 169 and gives rise to deemed service. The Hon’ble Madras High Court in *M/s Axiom Gen Nxt India Pvt. Ltd. v. Commercial State Tax Officer [W.P. No. 1114 of 2025]* held that uploading a document on the Common Portal is equivalent to publication and amounts to service. Co-ordinate benches of the Hon’ble Allahabad High Court itself, in *Atlantis Intelligence Ltd. v. Union of India [(2025) 177 taxmann.com 522 (Allahabad)]* and *D.R. Hotels (P.) Ltd. v. Deputy Commissioner [(2025) 179 taxmann.com 551 (Allahabad)]*, proceeded on the footing that service through registered e-mail is valid service and that the date of dispatch may be reckoned as the date of commencement of limitation — although the Division Bench in *Bambino Agro* distinguished these decisions on the basis that the receipt of e-mail was, in both cases, admitted by the assessee.

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Effect of the Stay: Until the Hon'ble Supreme Court decides the Special Leave Petition on merits, the ratio in *Bambino Agro* cannot be invoked as a binding precedent. Revenue authorities are likely to continue effecting service exclusively through the Common Portal, and adjudication and recovery proceedings premised on portal-based service will continue to operate. However, taxpayers who have been adversely affected by ex parte orders, particularly where they were unaware of the proceedings, may continue to invoke the alternate line of reasoning under *Mahaveer Trading Company*, *Shubham Steel Traders* and *Riya Construction* — which proceed on the broader ground of violation of the principles of natural justice and have not been independently stayed.

Way Forward for Taxpayers: Pending the outcome before the Hon'ble Supreme Court, taxpayers are well advised to (i) regularly monitor their dashboard on the GST Common Portal, including the “View Notices and Orders” and “Additional Notices and Orders” tabs; (ii) keep the registered e-mail address and mobile number updated on the portal and ensure that alerts are actively monitored by the principal or an authorised signatory; (iii) preserve evidence of the date on which any show cause notice or order was actually retrieved or first viewed; and (iv) where service is alleged to be defective, file the appeal under Section 107 along with an affidavit declaring the actual date of communication, so as to invoke the presumption in favour of the assessee as recognised by the Allahabad High Court.

The final pronouncement of the Hon'ble Supreme Court will have far-reaching implications for thousands of pending GST adjudications across the country and will conclusively settle the long-standing controversy on the interplay between Section 169 of the CGST/SGST Act and Sections 4, 12 and 13 of the Information Technology Act, 2000.

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(Author can be reached at info@a2ztaxcorp.com)

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