

F No. GST/INV/Seizure/19-20

**Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST-Investigation Wing**

Room No.01, 10th Floor,
Tower-2, 124, Jeevan Bharti Building,
Connaught Circus, New Delhi- 110001.
Dated the 9th December, 2019

INSTRUCTIONS NO. 04/2019

Subject: Judgment of Hon'ble Supreme Court in the case of State of Uttar Pradesh & ors vs. M/s Kay Pan Fragrance Pvt. Ltd. in Civil Appeal No. 8942/2019 & 8944/2019 – regarding.

Please refer to the Judgment of Hon'ble Supreme Court in the case of State of Uttar Pradesh & ors vs. M/s Kay Pan Fragrance Pvt. Ltd. in Civil Appeal No. 8942/2019 & 8944/2019.

2. This appeal was filed by the State of Uttar Pradesh & Ors against the order of the Hon'ble High Court of Allahabad wherein an interim Hon'ble High Court of Allahabad directed the State to release the seized goods, subject to deposit of security other than cash or bank guarantee or in the alternative, indemnity bond equal to the value of tax and penalty to the satisfaction of the Assessing Authority.

3. Vide the above mentioned Order; Hon'ble Supreme Court opined that: *"the orders passed by the High Court which are contrary to the stated provisions shall not be given effect to by the authorities. Instead, the authorities shall process the claims of the concerned assessee afresh as per the express stipulations in Section 67 of the Act read with the relevant rules in that regard. In terms of this order, the competent authority shall call upon every assessee to complete the formality strictly as per the requirements of the stated provisions disregarding the order passed by the High Court in his case, if the same deviates from the statutory compliances."*

4. Hon'ble Supreme Court also ordered: *"We reiterate that any order passed by the High Court which is contrary to the stated provisions need not be given effect to in respect of all the*

cases referred in the affidavit by the State Government before this Court and fresh cases which may have been filed or likely to be filed before the High Court in connection with the subject matter of these appeals, by all concerned and are deemed to have been set aside/modified in terms of this order."

5. Essentially, Hon'ble Supreme Court has held that the Competent Authority shall call upon every assessee to complete the formality strictly as per the requirements of Section 67 (Power of Inspection, Search & Seizure) read with Rule 140 (Bond and Security for release of seized goods) in such cases. Hence, all such matters may be dealt as per the ratio laid down by the Hon'ble Supreme Court in the referred matter, and if such 'identical/ similar matter' is under consideration of any High Court, or is taken up for consideration at a future date, the referred ruling of Hon'ble Supreme Court may be brought to its kind notice.

6. This issues with the approval of Member (Investigation), CBIC, New Delhi.

Neeraj Prasad

(Neeraj Prasad)

Commissioner (GST-Inv.), CBIC,

To
Principal Chief Commissioner(s)/ Chief Commissioner(s),
All CGST Zones.