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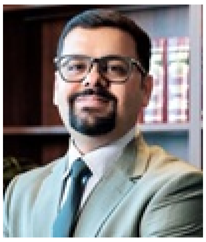
No Notification No Portal - P&H High Court Denies Deemed Service of GST Orders on a non-notified GST Portal



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Every taxpayer registered under GST effectively lives on one website. Registration begins there, returns are filed there, refunds are claimed there, and, increasingly, the Department speaks to the taxpayer through it as well. It is only natural, then, to assume that www.gst.gov.in or the 'Common Portal' is also where the law permits service of notices and orders carrying civil and penal consequences. Both the taxpayers and tax officers, have proceeded on precisely that assumption.

The Division Bench of the Hon'ble Punjab & Haryana High Court has now told them to look more closely at the statute. In *Luxmi Traders & Ors. v. Union Territory of Chandigarh & Ors.*, 2026-TIOL-867-HC-P&H-GST while disposing of a batch of writ petitions, the Court held that *merely uploading a notice or an order on the Common Portal is not, by itself, valid service under Section 169 of the CGST Act*. Several High Courts have already ruled on this question, but what sets *Luxmi Traders* apart is the route the Court takes to get there. Rather than debating the adequacy of the portal as a medium, the judgment turns on a far narrower and more technical point: has the Common Portal actually been notified, in the manner the statute requires, to perform this particular function at all?

1. The High Court's Analysis

Section 169 and the Modes Available

The Court began, unsurprisingly, with Section 169 i.e., the provision that governs how notices, orders, summons and other communications under the Act may validly be served. Among the modes it recognises is service by making the notice or order available on the Common Portal, under Section 169(1)(d).

Section 146 and What 'Prescribed' Actually Means

The term 'Common Portal' used in Section 169(1)(d) draws its meaning from Section 146, which the Court set out in full:

> **146. Common Portal. -** *The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed*

It was further noted that Section 2(87) of the CGST Act statutorily defines 'prescribed' to mean prescribed by rules made under the Act, on the recommendation of the Council. In other words, Section 146 does not open the door to any use of the Common Portal that Section 169 happens to mention and it requires that use to first be prescribed by Rule, or separately notified.

What the Notifications on Record Actually Cover

Exercising its power under Section 146, the Government has, over the years, issued three notifications bringing specific portals within the meaning of 'Common Portal' for specific purposes:

- Notification No. 4/2017-CT dated 19.06.2017 for registration, payment of tax, furnishing of returns, and computation and settlement of integrated tax, notifying www.gst.gov.in;
- Notification No. 9/2018-CT dated 23.01.2018 for the electronic way bill, notifying www.ewaybillgst.gov.in;
- Notification No. 69/2019-CT dated 13.12.2019 for preparation of e-invoices under Rule 48(4) of the CGST Rules.

The Court observed that **no other notification** has been issued under Section 146 specifying www.gst.gov.in or any portal as the Common Portal **for uploading notices or orders-in-original** for purposes of service under Section 169.

A Portal Not Yet Switched On for Service

The Court therefore concluded that though *Section 169(1)(d)* provides that service via the Common Portal is a permitted mode of service yet it does not by itself activate that mode unless such a portal is notified under section 146 which was missing.

The E-mail That Said Nothing

The Court also examined whether the e-mail alerts accompanying a portal upload could independently satisfy Section 169(1)(c) and it found that they could not. When a document is uploaded to the Common Portal, an e-mail is indeed sent to the taxpayer's registered e-mail address but the notice or order itself is never attached to it. The e-mail merely informs the taxpayer that something has been uploaded, without the taxpayer being able to see what is actually uploaded.

"The Manner Prescribed Is the Manner Required"

Having found no notification and no prescribing Rule, the Court fell back on a settled principle of statutory interpretation: *where a statute requires a thing to be done in a particular manner, it must be done in that manner and no other.* The Common Portal, the Court held, has been created to facilitate specifically notified activities and as things presently stand, service of notices and orders is not among them.

2. The Court's Prescriptions for the Department

While parting, the Court also suggested introducing prominent dashboard alerts for statutory communications, mandatory pop-up notifications, OTP-based acknowledgment for important legal communications, automated SMS alerts, and a dedicated section on the taxpayer's dashboard exclusively for statutory notices and orders. Only with such safeguards, the Court observed, would the Common Portal genuinely function as an instrument of effective communication, rather than a passive repository the taxpayer must check on faith.

3. Section 160 - A Narrow Escape Hatch

The judgment closes on a caveat that practitioners will want to note carefully. The Court accepted the Department's submission that Section 160 of the CGST Act still has work to do even where the mode of service falls short of Section 169 as service by uploading on the Common Portal cannot simply be disregarded where the taxpayer had *actual knowledge* of the notice or order and went on to contest the proceedings by filing a reply, for instance. In such cases, the notice cannot be said to have gone unserved. The defect in the mode of service, in other words, is not an automatic, unqualified escape route and is available to a taxpayer who can genuinely show that the upload left them in the dark, not to one who engaged with the proceedings and is now looking for a technical exit.

4. Conclusion

Luxmi Traders is unlikely to be the last word on how GST notices ought to be served as the question has already produced divergent High Court views, and a definitive answer may yet have to come from the Hon'ble Supreme Court. But the judgment carefully asks the more disciplined question a statute deserves i.e., has this specific function actually been notified, in the manner the Act itself requires? On the facts before it, the answer was no.

For taxpayers who have lost appellate remedies to silent uploads, the judgment offers a real argument worth examining. For the Department, it is another wake up call to do things only in the prescribed manner. Until then, the Common Portal remains as nothing but a notification from the department which cannot impact substantive rights and obligations.

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