

News

Delhi High Court asks GST Council to meet at the quickest, slash GST on air purifiers



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The Delhi High Court on Wednesday said that an urgent meeting of the Goods and Services Tax Council (GST Council) should be called to consider the issue of classifying air-purifiers as 'medical device' and slashing the GST levied on them from 18 to 5 percent [Kapil Madan vs Union of India & Ors].

A Division Bench of Chief Justice Devendra Kumar Upadhyaya and Justice Tushar Rao

Gedela noted that a report submitted by Parliamentary Standing Committee in December recommended that the government should take a sympathetic view and either abolish or lower the GST on air purifiers or HEPA filters used in air purifiers.

The Court said that the GST Council should meet at the earliest and consider the problem in view of the poor air quality in and around Delhi.

"We direct that the said question of lowering or removing the GST shall be considered by the GST council at the earliest. We are told that GST council is a pan-India body and convening a meeting may take some time. However, given the air quality situation in Delhi and nearby areas, we find it appropriate for the GST council to meet at the earliest," the order said.

The Court ordered government counsel Akash Panwar to seek instruction on how early the GST Council can meet.

"List this case on December 26, allowing the counsel for R2 to seek guidance about how early the council can meet. We may also observe that if the meeting of the council is not possible physically, the same may be considered to be done through video conferencing," the Bench ruled.

The Court was hearing a plea seeking orders to categorise air-purifiers as 'medical device' and slash the GST on them from 18 to 5 percent

As per the petition made by advocate Kapil Madan, air-purifiers cannot be treated as luxury considering the "extreme emergency crisis" caused by dire air pollution in Delhi.

"The imposition of GST at the highest slab upon air-purifiers a device that has become indispensable for securing minimally safe indoor air renders such equipment financially inaccessible to large segments of the population and thereby inflicts an arbitrary, unreasonable, and constitutionally impermissible burden," the petition stated.

According to the petition, air-purifier satisfies the criteria of a 'medical device' under a 2020 notification given by the Centre.

"Air-purifiers perform a critical medical-device function by enabling safe respiration

and mitigating life-threatening exposures, placing them squarely within the preventive and physiological-support purposes,” the petition said.

Thus, levying 18 percent GST on the same is arbitrary, unreasonable and excessive, it was .

According to the letter,

“Continued imposition of 18% GST on air-purifiers, despite their medically recognised role in crisis situations and their functional equivalence to devices taxed at 5%, constitutes an arbitrary and unreasonable fiscal classification. Such differential treatment fails the constitutional test of intelligible differentia and bears no rational nexus to public-health goals, thereby warranting judicial intervention.”

When the matter was heard in the forenoon session, the Court had noted that if the authorities cannot provide clean air for citizens to breathe, then the least it can do is to lower the Goods and Services Tax (GST) on air purifiers which are presently taxed at 18 percent.

The Bench asked the government counsel to take orders on the same and report back to the Court at 2.30 pm today.

"This is the best that you can do. Every citizen needs fresh air. If you can't do it, minimum you can do is lower GST. Give an exemption for 15 days on a limited basis. Treat this situation as an emergency. Take directions and tell us now. Tell us now when will you come back with direction. We will place it during holiday but only for compliance. How many times do you breath in a day? 21,000 times. Just assess the harm you are doing to yourself. We want directions at 2:30. We will keep it for compliance during holidays," the Court remarked