

GST UPDATE

Delhi HC Judgment - No Right to issue
Belated Deficiency Memo after
Termination of Statutory limits



Delhi HC: No Right to Issue Belated Deficiency Memo After Termination of Statutory limits

The Petitioner Jian International filed a writ petition in the Delhi high court seeking a direction to the Department to grant refund of Rs. 9,12,893 claimed under section 54 of the Delhi GST Act, 2017 for the month of Aug 2019, along with grant of interest as per Section 56 of the DGST/CGST Act.

The learned counsel of the petitioner postulated that in accordance with Section 54(6) of DGST Act read with Rule 91(2) of Delhi Goods and Services Tax Rules, 2017 (for short "DGST Rules") proper officer is required to refund at least 90% per cent of the refund claimed on account of zero-rated supply of goods or services or both made by registered persons within a period of seven days from the date of acknowledgment issued under sub-rule (1) or sub-rule (2) of Rule 90 of DGST Rules. Despite the period of 15 days from the date of filing the refund application had expired as on 19 Nov, 2019, the respondent has till date neither pointed out any deficiency/discrepancy in FORM GST RFD-03 nor it has issued any acknowledgment in FORM GST RFD-02.

To this, the learned counsel of the respondent admitted that there has been laxity on the part of the respondent in processing the petitioner's application. He, however, states that a formal deficiency memo will have to be issued as certain documents though annexed with the writ petition had not been uploaded by the petitioner along with its refund application.

The court finds that allowing the respondent to issue a deficiency memo today would amount to enabling the Respondent to process the refund application beyond the statutory timelines as provided under Rule 90 of the CGST Rules. Further, it would also be construed as a rejection of petitioner's initial refund application, thereby requiring him to file a fresh refund application. **This would not only delay the petitioner's right to seek a refund but also impair petitioner's right to claim interest from the relevant date of filing of the original application for refund as provided under the Rules.**

Therefore, the court referred the respondent's prayers to raise a deficiency memo as a hyper-technical plea as admittedly, all the relevant documents have been annexed with the present writ petition and the respondent is satisfied with their authenticity.

The Delhi High Court is of the view that Respondent has lost the right to raise any deficiency memo at belated stage and thereby, directs the respondent to pay to the petitioner the refund along with the interest in accordance with law within two weeks.

This judgement is issued by Delhi High Court vide order no. W.P. (C) 4205/2020 dated 22nd July, 2020

For more details, Read the Judgement from the Link below:-

<http://delhihighcourt.nic.in/judgement.asp>

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