

Assessee allowed to rectify its GST Returns after the deadline

The Hon'ble Orissa High Court in the matter of *M/s. Shiva Jyoti Construction v. The Chairperson, Central Board of Excise & Customs and others [W.P. (C) No. 18216 of 2017 dated January 12, 2023]* permitted the assessee to rectify its Goods and Services Tax ("GST") Returns filed for the months of September 2017 and March 2018, in order to claim Input Tax Credit ("ITC") benefit by the recipient, wherein B2C was erroneously mentioned, instead of B2B. Held that, the assessee will be unnecessarily prejudiced if it is not allowed to avail the benefits of ITC.

Facts:

M/s Shiva Jyoti Construction ("**the Petitioner**") has filed this petition seeking to permit them to rectify the GST Return filed for the months of September 2017 and March 2018, wherein the Petitioner had wrongly mentioned B2C instead of B2B while filing **Form GSTR-1** due to which the recipient was unable to avail the ITC. The Petitioner was unaware of such error until January 21, 2020.

Thereafter, the Petitioner had made requests to the Revenue Department ("**the Respondent**") to allow it to rectify the **Form GSTR-1**. The Respondent rejected the request of the Petitioner vide letters of rejection dated June 19, 2020 and September 23, 2020 ("**the Impugned Letters**"), on the ground that the last date of filing the return was March 31, 2019 and the last date of carrying out such rectification was April 13, 2019. Thus, the deadline for the rectification of errors in **Form GSTR-1** had crossed.

Issue:

Whether the Petitioner can be allowed to make rectifications in its **Form GSTR-1** after the deadline for rectification of errors had crossed?

Held:

The Hon'ble Orissa High Court in ***W.P. (C) No. 18216 of 2017:***

- Observed that, no loss would be caused to the Respondent by allowing the Petitioner to make the rectifications and that, the Petitioner will be unnecessarily prejudiced if it is not allowed to avail the benefits of ITC.
- Relied on the judgment of the Hon'ble Madras High Court in the matter of ***M/s. Sun Dye Chem v. the Assistant Commissioner (ST) [Writ Petition No.29676 of 2019 dated October 6, 2020]*** wherein, the Court allowed the assessee to rectify and correct its **Form GSTR-1** for the Period August 2017 to December 2017 and redistribute the ITC available and directed the Revenue Department to enable amendment in **Form GSTR-1**.
- Set aside the Impugned Letters.
- Permitted the Petitioner to resubmit the corrected **Form GSTR-1**.
- Directed the Respondents to receive the forms manually and facilitate the uploading of details in the web portal within a period of four weeks.

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