

Assessee permitted to rectify its GSTR-1 for FY 17-18 & 18-19 to avail ITC benefits

The Hon'ble Orissa High Court in *M/s. Y. B. Constructions Pvt. Ltd. v. Union of India and others [W.P.(C) No.12232 of 2021 dated February 22, 2023]* has permitted the assessee to rectify the error of mentioning B2C instead of B2B in **Form GSTR-1** at the time of filing of returns, holding that the assessee would be prejudiced if it is not allowed to avail the benefits of Input Tax Credit ("ITC"). Directed the Respondent to receive the corrected **Form GSTR-1** manually and upload the details on the web portal within 4 weeks.

Facts:

M/s. Y. B. Constructions Pvt. Ltd. ("**the Petitioner**") had committed a mistake while filing the GST Return under **Form GSTR-1** for the period 2017-18 dated October 16, 2017 and November 25, 2017 and for the period 2018-19 dated January 30, 2018 and March 30, 2019, wherein, B2C instead of B2B was mentioned. The Petitioner sought to correct the error in order to receive the ITC benefit from the principal contractor. The last date for rectifying the return was April 13, 2019. The Revenue Department ("**the Respondent**") stated that once the deadline for rectification of the Forms was crossed, then no further indulgence would be granted to the Petitioner.

Being aggrieved, this Petition has been filed.

The Petitioner contended that the error came to be noticed when the principal contractor held up the legitimate running bill amount of the Petitioner by informing it about the above error and thereafter it has been making requests to the Respondent to permit it to make the corrections.

Issue:

Whether the Petitioner be allowed to rectify the error committed in **Form GSTR-1**?

Held:

The Hon'ble Orissa High Court in ***W.P.(C) No.12232 of 2021*** held as under:

- Noted that, allowing the Petitioner to rectify the mistake in its GST Returns will not cause any loss to the Respondent, as there will be no escapement of tax, however, denying the request will prejudice the Petitioner, who is entitled to receive the ITC benefit.
- 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 plea of the assessee was accepted and it was permitted to file the corrected Form.
- Permitted the Petitioner to resubmit the corrected **Form GSTR-1**.
- Directed the Respondent to receive the corrected **Form GSTR-1** manually and facilitate the uploading of the details on the web portal within 4 weeks.

Our Comments:

The above judgment brings up a significant issue concerning whether the assessee would be allowed to rectify the error while filing its **Form GSTR-1**.

In this regard, recently, in a similar matter, the Hon'ble Orissa High Court in ***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]*** had permitted the assessee to rectify its **Form GSTR-1** filed for the months of September 2017 and March 2018, in order to claim ITC benefit by the recipient, wherein B2C was erroneously mentioned, instead of B2B. It was held that, the assessee will be unnecessarily prejudiced if it is not allowed to avail the benefits of ITC.

To know more, kindly watch our video "**Legal Jurisprudence: B2B Supply wrongly shown as B2C - Credit denied to Buyers**" || CA (Adv) Bimal Jain - <https://youtu.be/MuYeNW510E8>

Further, the Hon'ble Karnataka High Court in *M/s. Wipro Limited India v. the Assistant Commissioner of Central Taxes and Ors. [Writ Petition No. 16175 of 2022 (T-Res) dated January 6, 2023]* had allowed the assessee to rectify the errors committed at the time of filing of Forms and submitting GST Returns for FY 2017-2020. It was held that, the error committed by the assessee in showing the wrong Goods and Services Tax Identification Number (“GSTIN”) in the invoices, which was carried forward in the relevant forms is a bonafide error, which has occurred due to bonafide reasons, unavoidable circumstances and sufficient cause. Hence, *Circular No. 183/15/2022-GST dated December 27, 2022* (“the Circular”), which allows rectification of such bonafide and inadvertent mistakes, would be directly and squarely applicable.

To know more, kindly watch our video “Karnataka HC: Relevance of Circular on Difference of Credit in GSTR 2A vs. GSTR 3B” || CA (Adv) Bimal Jain - <https://youtu.be/cl0Isfns-Oo>

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.