

GST Refund Application re-filed after issuance of Deficiency Memo against original application will not be treated as fresh application for the purpose of determining time limitation of 2 years.

The date of filing of original application shall be considered for the purpose of time limitation.

BSNL v UOI & ORS reported in 2023 (4) TMI 495 - DELHI HC

While departmental authorities can issue deficiency memo even after 15 days of filing the refund application or pass Order after 60 days time period provided under the Statute, the Master Circular 125/44/2019 empowered the authorities to straight away reject the refund of applicant on ground of limitation if rectified application was filed by him after 2 years from relevant date.

The date of rectified refund application filed after correction of deficiencies was reckoned as the date of filing of refund for the purposes of time limitation of 2 years. The date of filing of original application was made irrelevant.

The Hon'ble Delhi High Court while quashing a refund rejection order on ground of limitation has held that if original application was filed by Petitioner, accompanied by documentary evidences as per Rule 89(2), within time, then it cannot be rendered as non est merely because certain other documents/clarification are sought thereafter through Deficiency Memo and Petitioner is ought to re-file the application.