

Assessee can rectify or revise Form GSTR-3B or GSTR- 1

The Hon'ble Gujarat High Court in *M/S Deepak Print v. Union of India [R/Special Civil Application No. 18157 of 2019, decided on March 9, 2021]* directed the revenue department to allow the rectification of entries in the Form GSTR-3B return for the Month of May, 2019, on account of genuine bonafide human error.

Facts:

M/S Deepak Print ("**the Petitioner**") is a proprietor engaged in the business of printing of dress materials etc. That the Petitioner had submitted the return of his business in the month of May, 2019 through the online process, i.e., the GST Portal. The Petitioner, inadvertently, in the course of making entries in the Form GSTR-3B for the month of May, 2019, wrongly uploaded the entries of M/s. Deepak Process instead of M/s. Deepak Print i.e., the Petitioner.

Subsequently, the Petitioner preferred a representation in writing addressed to the Nodal Officer, SGST Office, Rajkot ("**Respondent**") dated June 25, 2019, for which no response has been provided till date.

Being aggrieved, the Petitioner has filed this writ seeking to edit and upload actual entries in Form GSTR-3B for the Month of May 2019 which is at the submission stage and to modify the conditions and rules mentioned in the Annexure-A of *Circular No. 26/26/2017-GST, dated December 29, 2017*, by which a registered person can edit any error if occurred during submitting/offsetting the Input Tax Credit ("**ITC**") and before filing of the Form GSTR-3B return.

Issue:

Whether the Petitioner is entitled to seek rectification of Form GSTR-3B for the month of May, 2019?

Held:

The Hon'ble Gujarat High Court in *R/Special Civil Application No. 18157 of 2019, decided on March 9, 2021* held as under:

- Observed that the Respondent did not give a formal reply or respond to the representation preferred by the Petitioner. The Petitioner tried his best to take up the matter with the concerned authority, but ultimately had to come before the Court with the present writ application.
- Noted that, in last two years, the Respondent has not even thought fit to file a formal reply opposing the writ application. Even, as on date, time was prayed for, which the Court declined having regard to the facts of the present case.
- Relied on the decision of the Hon'ble Delhi High Court in the case of ***Bharti Airtel Limited v. Union of India & Ors., [Writ Petition (Civil) No. 6345 of 2018, decided on May 05, 2020]*** and held that the Petitioner should be permitted to rectify the Form GSTR-3B in respect of the relevant period.
- Directed the Respondent, to modify the conditions and rules mentioned in Annexure A of ***Circular No. 26/26/2017-GST dated December 29, 2017***, by which a registered person can edit any error if occurred during submitting/offsetting the ITC and before the filing of the Form GSTR-3B return.
- Further, directed the Respondent that on filing rectified Form GSTR -3B, Respondent shall verify the claims made therein and give effect to the same once verified with in 2 weeks.
- Furthermore, Petitioner shall not be saddled with the liability of payment of late fees as they have been dragged into unnecessary litigation only on account of the technicalities raised by the Respondent.

Our Comments:

Recently, the Hon'ble Madras High Court in ***Pentacle Plant Machinerics Pvt. Ltd. v. Office of the GST Council and ors. [W.P. No. 1022 of 2020, decided on February 23, 2021]*** has allowed the assessee to correct a "human error" while filing Form GSTR-1 return, wherein the assessee mentioned the GST number of the purchaser in Uttar Pradesh instead of the GST number of the purchaser in Andhra Pradesh and realized only when the recipient notified it of the rejection of credit. Relied on its earlier decision in ***Sun Dye Chem v. The Assistant Commissioner [W.P. No. 29676 of 2019, decided on October 6, 2020]*** wherein it was held that the assessee should not be mulcted with any liability on account of the bonafide, human error and must be permitted to correct the same. Directed the Revenue to enable amendment to Form GSTR-1 with all consequences thereto, within a period of 8 weeks.

To know more, kindly watch video on “GSTR 1 or GSTR 3B can be Rectified or Revised” by CA Bimal Jain- <https://www.youtube.com/watch?v=q69eduYkVNI>

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