

**Refund Application is not deficient when conditions stated under Rule 89(2) of the CGST Rules are fulfilled**

The Hon'ble Delhi High Court in the case of *M/s. AB Enterprises v. Commissioner of Goods and Services Tax [WP (C) 7919 of 2023 dated November 21, 2023]* allowed the writ petition and held that, the Refund application cannot be termed as deficient if it complies with the conditions stated in Rule 89(2) of the Central Goods and Services Tax Rules, 2017 (**"the CGST Rules"**).

**Facts:**

M/s. AB Enterprises (**"the Petitioner"**) has filed the refund application for unutilized Input Tax Credit (**"ITC"**) pertaining to zero-rated supplies (exported goods) which was filed in Form GST RFD-01. However, the Petitioner's application was not processed by the Revenue Department (**"the Respondent"**) and issued the communication (Form GST RFD-03) dated April 6, 2022 (**"the Impugned Communication"**), which stated that, after scrutiny of the refund application, the following deficiencies were noted:

- Relevant supporting documents not attached
- Supporting documents attached are incomplete

Aggrieved by the Impugned Communication issued by the Respondent, the Petitioner filed a writ petition on the ground that, first the officer is not authorized or competent to issue the Impugned Communication. Second, the deficiencies stated in the Impugned Communication are beyond the scope of Rule 89(2) of the CGST Rules.

**Issue:**

Whether Refund Application is deficient when the conditions stated under Rule 89(2) of the CGST Rules are fulfilled?

**Held:**

The Hon'ble Delhi High Court in the case of ***W.P. (C) No. 7919 of 2023*** held as under:

- Relied upon the judgment in the case of ***National Internet Exchange of India v. Union of India and Ors. [W.P. (C) 871 of 2022 dated August 9, 2023]*** wherein it was held that, if the application is complete with all the required documents, fulfilling the requirements stated in sub-rules (2), (3), and (4) of Rule 89 of the CGST Rules, the application for refund cannot be rejected. However, even if the documents are complete, the proper officer may withhold the processing of refund, on the ground that the amount of tax credited is not refundable to the taxpayer. In such cases, the proper officer is required to further verify the claim, by issuance of notice in Form GST RFD-08 under sub-rule (5) of Rule 90 of the CGST Rules.
- Noted that, the Impugned Communication implies that the Petitioner, as per Rule 90(3) of the CGST Rules, is required to file a fresh application for refund. The Petitioner's application for refund could not be termed as deficient if it complies with the conditions stated in Rule 89(2) of the CGST Rules. Though the concerned officer has the right to ask for further documents to process the claim, the refund application cannot be termed as deficient even if the documents asked for are not annexed with the application.
- Opined that, the impugned communication is devoid of any specific details. The Impugned Communication neither sets out specifically any relevant documents that have not been provided nor indicates the documents that are incomplete.
- Held that, the Impugned Communication is set aside.
- Directed that, the Respondent shall issue the acknowledgment as per conditions laid out in Rule 90 of the CGST Rules, and process the Petitioner application for refund in accordance with law.

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