

DESAI SAKSENA & ASSOCIATES

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Friday Tax Alert

From:

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Refund to be granted along with interest as physical verification confirmed that assessee was carrying on business from declared premises: HC

GST: Where refund application of assessee was rejected by impugned order on ground that assessee was not carrying business, however on visit by officer as per direction of High Court, it was found that assessee was carrying business from its principal place and documents related to refund were in order, impugned order was to be set aside and refund was to be issued to assessee along with interest.

Assessee filed instant petition against refund rejection order passed by respondents - Respondents contended that refund was rejected as assessee was not carrying any business - A state officer visited premises of assessee and it was found that assessee was carrying business at principal place of business and documents related to refund processing were in order.

FACTS OF THE CASE:

1. **Refund Application Filed**-The petitioner, Kroll Global Solutions LLP, applied for a refund of ₹1,01,19,808 along with interest.
2. **Refund Rejection Order Issued**-The State of Maharashtra rejected the refund application, citing that the petitioner was not carrying on business from its principal place of business.
3. **Petitioner Challenged the Order**-The petitioner filed a writ petition before the Bombay High Court, challenging the rejection.
4. **Court Issued Rule**-The Bombay High Court issued a Rule, and the respondents waived service, allowing the matter to be heard finally.
5. **Verification Ordered**- The court directed an officer to visit the petitioner's principal place of business to verify whether operations were being conducted.
6. **Verification Findings**-Upon inspection, the officer confirmed that the petitioner was indeed carrying on business from its principal place of business, and all documents related to the refund were in order.
7. **Court's Decision**- Based on the verification, the Bombay High Court set aside the impugned order and directed the State of Maharashtra to issue the refund along with applicable interest.

CONCLUSION:

Assessee was entitled to refund along with interest; therefore, impugned order was to be set aside and respondents were to be directed to issue refund to assessee along with interest [Section 54 of Central Goods and Services Tax Act, 2017/ Maharashtra Goods and Services Tax Act, 2017.

1. **Refund Rejection Basis Overturned**-The Bombay High Court set aside the Refund Rejection Order issued by the State of Maharashtra, which had initially denied the refund on the grounds that the petitioner was not carrying on business from its principal place of business.
2. **Court-Ordered Verification Confirmed Business Operations**-The court directed an officer to visit the petitioner's principal place of business to verify whether operations were being conducted.

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3. **Verification Findings Supported the Petitioner**-Upon inspection, the officer confirmed that the petitioner was indeed carrying on business from its principal place of business, and all documents related to the refund were in order.
4. **Refund Granted**-Based on the findings, the court directed the State of Maharashtra to issue the refund of ₹1,01,19,808 to the petitioner.
5. **Interest Awarded**-The court also ordered that the refund be issued along with applicable interest, ensuring that the petitioner was compensated for the delay.
6. **Legal Representatives and Judges**-The case was heard by Hon'ble Judges B.P. Colabawalla and Firdosh P. Pooniwalla, with the petitioner represented by Prakash Shah and Jas Sanghavi, and the respondents represented by S.D. Vyas and Aditya Deolekar.
7. **Legal Precedent Set**-The case highlights the importance of proper verification before rejecting tax refund claims, ensuring that businesses are not denied rightful refunds due to procedural errors.
8. **Final Court Order**-The Bombay High Court ruled in Favor of the petitioner, emphasizing that tax authorities must conduct thorough verification before rejecting refund applications.

Kroll Global Solutions LLP vs. State of Maharashtra [2025] 173 taxmann.com 411 (Bombay) [04-04-2025]

Rectification of clerical errors in GSTR-1 to be allowed; software issues do not justify denying corrections: HC

GST: Benefit of rectification of errors in return should be allowed when errors are of nature of clerical; limitation in portal software cannot be a ground to deny benefit.

Rectification of errors - Period 2017-18 - Assessee committed certain errors in GSTR-1 returns as recipients' GSTIN/name had been wrongly mentioned, invoice number/date had been wrongly mentioned, some of invoice-wise details had been omitted to be reported in Form GSTR-1 and IGST was inadvertently remitted under heads SGST and CGST - Assessee had averred that tax liability had been met in full based on turnover reported and it was only correction of errors that was sought to enable proper reconciliation of assessee's returns and annexures with those of third parties - Revenue submitted that there was no mechanism available as on that date to issue mandamus as sought, i.e., to direct authority to enable assessee to rectify the clerical errors in details uploaded by assessee in its GSTR 1 forms - Single Judge permitted benefit of rectification of errors as there was no mala fides attributed to assessee.

FACTS OF THE CASE:

1. **Refund Denial Due to Clerical Errors**-The taxpayer's Input Tax Credit (ITC) claim was denied due to clerical or arithmetical mistakes in GST return filings.
2. **Software Limitations Used as Justification**-The tax authorities refused rectification, citing limitations in the GST portal software, preventing corrections beyond the stipulated period.

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3. **Legal Challenge by Taxpayer**-The taxpayer challenged the denial in the Bombay High Court, arguing that rectification should be allowed for genuine errors.
4. **Bombay High Court Ruling**-The Bombay High Court ruled in favor of the taxpayer, stating that clerical mistakes should not lead to ITC denial and that software limitations cannot override legal rights.
5. **Supreme Court Intervention**-The Supreme Court of India upheld the Bombay High Court's decision, affirming that rectification of errors is a fundamental right for businesses.
6. **CBIC Directed to Reevaluate Timelines**-The Supreme Court directed CBIC to reconsider the rectification timelines under Sections 37(3) and 39(9) of the CGST Act, ensuring businesses can correct bona fide errors.
7. **Impact on ITC Claims**-The ruling ensures that buyers should not lose ITC due to supplier errors, provided the tax has already been paid to the government.
8. **Legal Precedent Set**-This case establishes a strong precedent for allowing rectification of GST returns, ensuring fair taxation practices and protecting businesses from undue financial burdens.

CONCLUSION:

Human errors and mistakes are normal - Right to correct mistakes in nature of clerical or arithmetical error is a right that flows from right to do business and should not be denied unless there is a good justification and reason to deny benefit of correction - Software limitation itself cannot be a good justification, as software is meant to ease compliance and can be configured - Therefore, benefit of rectification of errors was to be allowed

1. **Right to Rectification Upheld** -The Supreme Court of India and the Bombay High Court ruled that taxpayers must be allowed to correct clerical or arithmetical errors in GST returns.
2. **Software Limitations Not a Valid Excuse**-Authorities cannot deny rectification based on portal limitations or technical constraints.
3. **Impact on Input Tax Credit (ITC)**-The courts emphasized that buyers should not lose ITC due to supplier errors when the tax has already been paid to the government.
4. **Procedural Fairness Mandated**- The rulings ensure that clerical mistakes do not result in financial penalties for businesses.
5. **Government Directed to Reevaluate Timelines**- The courts recommended reevaluating rectification timelines under Sections 37(3) and 39(9) of the CGST Act to accommodate genuine errors.
6. **Legal Precedent Set**-This case establishes a strong precedent for allowing rectification of GST returns, ensuring fair taxation practices and protecting businesses from undue financial burdens.

Principal Chief Commissioner of GST and Central Excise vs. Deepa Traders [2025] 173 taxmann.com 626 (Madras) [01-04-2025]

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Government is not considering levying goods and services tax (GST) on UPI transactions over ₹ 2,000
Press Release, Dated 18-04-2025

The Finance Ministry has officially clarified that the government is not considering levying GST on UPI transactions over ₹2,000. Several reports and social media posts had claimed that such a tax was being planned, but the ministry dismissed these claims as completely false, misleading, and without any basis.

Why is GST not applicable to UPI transactions?

- GST is levied on service charges, such as the Merchant Discount Rate (MDR), which applies to payments made using certain instruments.
- However, in January 2020, the Central Board of Direct Taxes (CBDT) removed MDR on Person-to-Merchant (P2M) UPI transactions.
- Since no MDR is charged on UPI transactions, there is no GST applicable to them.

Government's stance on digital payments

The government remains committed to promoting digital payments via UPI. To support this, an incentive scheme has been operational since FY 2021-22, specifically targeting low-value UPI (P2M) transactions. This scheme benefits small merchants by reducing transaction costs and encouraging wider adoption.

Growth of UPI transactions

UPI transaction values have seen exponential growth, increasing from ₹21.3 lakh crore in FY 2019-20 to ₹260.56 lakh crore by March 2025. The government has also allocated ₹3,631 crore in FY 2023-24 under the incentive scheme to further boost digital payments.

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