

TAX INFO

Dated 30/04/2022

Latest update on GST Law: **Issuance of "C" Form cannot be denied for technical or administrative reasons by the Department** given in **Judgment by Delhi High Court.**

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Name of Petitioner	M/S SrivenkateshwareTradexPvt. Ltd.
Name of Respondent	Commissioner, Delhi Value Added Tax
Court	Delhi High Court
Date of Judgement	25.03.2022
Appeal No.	W.P. (C) No. 10115 of 2019

Brief Facts of the Case Law:

The petitioner was a registered dealer under the CST Act and had purchased goods in the course of interstate transactions against "C" Forms. By virtue of Section 8(4) of the CST Act, the Department is obliged to issue Form "C" in respect of the purchases made on the strength of his Registration Certificate under CST Act. The petitioner was duly assessed for the Assessment Year 2016-17 and the Interstate purchases against Form "C" were accepted by the Assessing Authority. The petitioner applied for issuance of Form "C" on 21st June, 2019 in respect of Assessment Year 2016-17. The Assessing Authority vide impugned order dated 05th July, 2019 observed that the facts stated in the application for issuance of Form "C" were true but rejected the issuance of Form "C" for the reason that the system did not permit downloading of "C" Form.

Contention of the Petitioner:

The statutory Form "C" could not be issued as the details of purchases were not entered in prescribed column which provides for filling details of interstate trade against Form "C" in the returns filed with the Department. The interstate purchases against Form "C" were reflected as High Seas purchases in 3rd and 4th quarter in the returns filed for the year 2016-17. By virtue of Section 28 of Delhi Value Added Tax Act, if any dealer discovers a discrepancy in a Return furnished by him, then such discrepancy has to be removed by filing a revised return within a period of one year following the year of such tax period. Once, the period of one year expires, the dealer cannot be allowed to rectify discrepancy by filing revised return as no such process exists under DVAT Act.

Decision of the Court:

It is evident from the Assessment Order dated 10th October, 2018 in respect of Financial Year 2016-17 that it was a case where no Form "C" were found missing. The only error that occurred was in mentioning the purchase as High Seas Purchases when in fact they were the sales made against Form "C" purchases. No Form "C" was found missing and the assessment was made on NIL demand. After the assessment was finalized, the petitioner had made an application dated 21st June, 2019 for issuance of "C" Forms but the request for Form "C" was rejected solely on the ground that the downloading of Form "C" was not allowed by the system. It is not a case where there is a default or concealment or adverse material is found by the Commissioner suggesting inaccurate particulars in the returns. It is the case where all the documents and particulars were furnished correctly except that the purchases were inadvertently mis-described as High Seas instead of Form "C" purchases. The sole reason for declining the Form "C" is not that the petitioner is not entitled but merely that the system does not permit the downloading of "C" Form. The petitioner, therefore, who is held entitled to issuance of Form "C", cannot be deprived of the same on technical reason of failure of the electronic system to generate the "C" Form. The systems have been created purely for facilitating and simplifying the business transactions. The Department cannot plead its helplessness on the ground of the system not enabling it to do so. Once the petitioner is held to be entitled to "C" Form, the same cannot be denied for technical or administrative reasons. The Department is directed to furnish the Form "C" for the Financial Year 2016-2017 to the petitioner within 3 months.

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