

# TAX INFO

Dated 07/01/2022

Latest update on GST Law: Information regarding **Refund application cannot be rejected without giving proper opportunity of being heard** as given in **Judgement by Telangana High Court.**

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<b>Name of Petitioner</b>	Infosys Limited
<b>Name of Respondent</b>	Deputy Commissioner Of State Tax
<b>Court</b>	Telangana High Court
<b>Date of Judgement</b>	05.11.2021
<b>Appeal No.</b>	W.P.Nos.527 & 616 OF 2020

## **Facts of the Case:**

Petitioner is engaged in the business of exporting software and IT services. In connection with the export business of the petitioner, input tax paid on input services and capital goods gets accumulated as unutilized credit in the books of account of the petitioner. As a result, petitioner has been filing refund claims for refund of utilized. Refund Claim for the period April, 2018 to June, 2018 and July, 2018 to March, 2019 were filed. Such claims for refund were rejected on the ground that petitioner had not submitted the required documents in hard copies for verification vide refund Rejection Order Dated 22.10.2019

## **Contention of Petitioner:**

The petitioner submits that when a claim for refund is made and if the proper officer is satisfied for reasons to be recorded in writing that the claimed refund is not admissible or is not payable, then he is required to issue notice in the prescribed form, in which event, the claimant has to furnish a reply. The proper officer is under an obligation to consider such reply before accepting the claim of refund or rejecting such claim. **No application for refund shall be rejected without giving the applicant an opportunity of being heard.**

## **Decision of the Court:**

In a case where the proper officer is satisfied for reasons to be recorded in writing that the whole or any part of the amount claimed as refund is not admissible or is not payable, he shall issue notice to the applicant requiring filing of reply within 15 days of receipt of notice and after considering the reply make an order sanctioning the amount of refund in whole or in part or rejecting the refund claim which order shall be made available to the applicant.

An application for refund **shall not be rejected without giving the applicant an opportunity of being heard.** Therefore, there is a clear legal mandate that if an application for refund is to be rejected, the same can only be done after giving the applicant an opportunity of being heard.

The expression 'opportunity of being heard' is not an expression of empty formality. It is a part of the well-recognized principle of natural justice and is essential to fair procedure. The principle is that no one should be condemned unheard.

**Therefore, The Court directed the Department to hear afresh applications of the petitioner for refund within a period of two months from the date of receipt of a copy of this order after giving an opportunity of being heard to the petitioner.**

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