

TAX INFO

Dated 20/11/2021

Latest update on GST Law: Information regarding **Technical glitches on account of the transitional phase of the GST Act should not hinder processing of refund application** as given in **Judgement by High Court Of Kerala.**

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Name of Petitioner	Dantara Jewellers
Authority	In The High Court Of Kerala
Date of Judgement	07.10.2021
Appeal No.	WP(C) NO. 19271 OF 2021

Brief Facts Of The Case:

As per the order of demand of tax and penalty issued under section 129(3) of the State Goods and Services Tax Act, the petitioner remitted an amount of Rs.12,26,064/-. Thereafter, petitioner challenged the final orders passed, before the Appellate Authority. It was found that the petitioner was not liable for payment of any amount of tax and the Appellate Authority quashed the orders issued by the Department. By virtue of order of the Appellate Authority, petitioner became entitled for refund of the amount deposited under section 129(3) of the State Goods and Services Tax Act. Therefore, the petitioner filed application for refund. The Department issued a show-cause notice to the petitioner asking him to show cause why the claim of the petitioner for refund ought not to be rejected on the ground of absence of details of remittance of tax amount, as claimed by the petitioner. It was submitted that the reason for rejection is that the amount of tax paid at the first instance was through a temporary account and that since the temporary account is no longer available, the refund cannot be granted through that temporary account.

Decision of the Court:

It is fairly conceded that the petitioner is entitled for refund of the amount. These are all the glitches that are occurring on account of the transitional phase of the GST Act. The Court directed the Department to refund the amount of Rs.12,26,064/-, due to the petitioner as refund, within a period of 30 days. All the technical glitches that may occur in between, shall not stand in the way of ultimate relief of the grant of refund to the petitioner as otherwise the sanctity of the whole scheme of section 129 of the State Goods and Services Tax Act will lose the confidence of the assesseees to deposit the amount as contemplated under section 129 of the Act.

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