

TAX INFO

Dated 11.08.2020

Latest update on GST Law: Information regarding **Important ruling that refund must be issued within 15 days in a time bound manner** based on the **Judgement issued by Delhi High Court.**

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Deficiency Memo cannot be issued after 15 days

Name of Petitioner	Jian International
Name of Respondent	Commissioner of Delhi Goods and Services Tax
Court	Delhi High Court
Date of Judgement	22.07.2020
Order No.	W.P. (C) 4205/2020

The ruling is quiet important for taxpayers who are struggling for refund related to Zero-Rated supplies in a time bound manner

The petitioner has filed the refund claim in Form RFD-01 on account of zero-rated supplies in terms of Sec 54(6) of Delhi GST Act. The Department has neither issued Acknowledgement in FORM RFD-02 neither issued Deficiency Memo in FORM RFD-03 within stipulated 15 working days from the date refund application was filed in terms of Rule 90(2) and Rule 90(3).

Ld Counsel of Respondent states that a formal deficiency memo will have to be issued as certain documents though annexed with the writ petition had not been uploaded by the petitioner along with its refund application.

The Court stated that Rules 90 and 91 of CGST/DGST Rules provide a complete code with regard to acknowledgement, scrutiny and grant of refund. To allow the respondent to issue a deficiency memo today would amount to enabling the Respondent to process the refund application beyond the statutory timelines as provided under Rule 90 of the CGST Rules, referred above. This could then also be construed as rejection of the petitioner's initial application for refund as the petitioner would thereafter have to file a fresh refund application after rectifying the alleged deficiencies. This would not only delay the petitioner's right to seek refund, but also impair petitioner's right to claim interest from the relevant date of filing of the original application for refund as provided under the Rules.

As neither any acknowledgment in FORM GST RFD-02 has been issued nor any deficiency memo has been issued in RFD-03 within time line of fifteen days, the refund application would be presumed to be complete in all respects in accordance with sub- rule (2), (3) and (4) of Rule 89 of CGST/DGST rules. Thereby Delhi HC has given two important pronouncements in this judgement:

1. Department if not issued any Acknowledgement or Deficiency Memo within 15 days from filing of refund application, then they cannot issue Deficiency Memo beyond 15 days of refund application filed.
2. Granted provisional refund 90% which is supposed to be within 7 days of refund application which was not done alongwith interest within two weeks.

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