

TAX INFO

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Latest update on GST Law: Information regarding **Important ruling on Rectification of GSTR-3B if there were errors in capturing ITC** based on the **Judgement issued by Delhi High Court.**

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Rectification of GSTR-3B if there were errors in capturing ITC

Name of Petitioner	Bharti Airtel Limited
Name of Respondent	Union of India & Ors.
Court	Delhi High Court
Date of Judgement	05.05.2020
Order No.	W.P. No. 6345/2018

Petitioner is engaged in the business of providing telecommunication services in India, including Delhi, by virtue of license granted by the Department of Telecommunication, Government of India. In the initial phase of GST, several issues cropped up which had a significant impact on tax paid, the output liability, and the ITC of the Petitioner and led to occurrence of several inadvertent errors.

During the period from July, 2017 to September, 2017, the Petitioner in its monthly GSTR- 3B recorded the ITC based on its estimate. As a result, when the Petitioner had to discharge the GST liability, the details of ITC available were not known and the Petitioner was compelled to discharge its tax liability in cash, although, actually ITC was available with it but was not reflected in the system on account of lack of data. The exact ITC available for the relevant period was discovered only later in the month October 2018, when the Government operationalized Form GSTR-2A for the past periods. Thereupon, precise details were computed and Petitioner realized that for the relevant period ITC had been under reported. This was occasioned to a great degree due to non-operationalization of Forms GSTR-2A, GSTR-2 and GSTR-3 and the system related checks which could have forewarned the petitioner about the mistake. Moreover, since there were no checks on the Form GSTR-3B which was manually filled up by the Petitioner, the excess payment of tax went unnoticed. Petitioner now desires to correct its returns, but is being prevented from doing so, as there is no enabling statutory procedure implemented by the Government.

Respondents have also not been able to expressly indicate the rationale for not allowing the rectification in the same month to which the Form GSTR-3B relates. Respondents have admitted that the facility of Form GSTR-2A was not available prior to 2018 and, as such, for the months of July, 2017 to September, 2017 the scheme as envisaged under the CGST Act was not implemented. Respondents have also clearly acknowledged that there could be errors in Form GSTR-2A which may need correction by the parties and have, in fact, permitted the rectification, clearly reinforcing the stand of the Petitioner.

Petitioner was allowed to rectify Form GSTR-3B for the period to which the error relates, i.e. the relevant period from July, 2017 to September, 2017. Respondents were directed that on filing of the rectified Form GSTR-3B, they shall, within a period of two weeks, verify the claim made therein and give effect to the same once verified

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