

TAX INFO

Dated: 15.10.2020

Latest update on GST Law: Information regarding **HC directs revenue to adjudicate expeditiously on impugned SCN, deficiency memo and refund order** based on the **Judgement issued by Delhi High Court**.

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HC directs revenue to adjudicate expeditiously on impugned SCN, deficiency memo and refund order

Name of Petitioner	Gulshan Kapoor
Name of Respondent	Commissioner of Delhi Goods and Services Tax & Ors
Name of Court	Delhi High Court
Appeal Number	WP (C) 7037/2020 & CM APPL. 23996/2020
Date of Judgement	30.09.2020

Facts of the Case:

Petitioner challenges the impugned deficiency memo dated 15.07.2020 issued by respondent for the period July 2018 to September 2018 as well as impugned SCN dated 15.07.2020 for refund application for the period October 2018 to December 2018 and impugned refund order dated 03.09.2020 issued by respondent for period January 2019 to March 2019 by crediting the refund claimed to the Consumer Welfare Fund

Contention of Petitioner:

Petitioner prays for directions to the respondents to grant the refund of Input Tax Credit to the petitioner for all the three refund periods along with interest. He contends that a notice can be issued where the proper officer is satisfied for the reasons to be recorded in writing that the whole or any part of refund is not admissible. However, he states that no precise reason of satisfaction for inadmissibility of refund is recorded and it is unclear why there is a requirement for the petitioner to appear in person when additional clarifications can be furnished electronically.

He submits that the impugned Deficiency Memo and Show Cause Notice are ex-facie nullity since reliance for their issuance is placed on the Circular no. 125/44/2019-GST dated 18.11.2019, as per which a Circular can be issued to clarify provisions of the Act and Rules but the same cannot place additional requirements for compliance.

He further submits that the impugned Deficiency Memo was issued after a period of around 90 days, whereas the deficiency memo needs to be issued within a mandatory period of 15 days.

Reply of Respondent:

The Ld. Counsel states that reply to show cause notice, deficiency memo and representation shall be decided expeditiously after giving an opportunity of hearing to the authorized representative of the petitioner by way of a reasoned order in accordance with law. He further states that the petitioner need not appear personally before the respondent.

Judgement:

Court directs the petitioner to take all its pleas in the replies to the SCN, deficiency memo and representation seeking credit of refund in its account. The statement made by respondent is accepted and the said respondents are held bound by the same

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