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GOVERNMENT OF NCT OF DELHI
DEPARTMENT OF TRADE AND TAXES
POLICY BRANCH,
VYAPAR BHAWAN, IP ESTATE,
NEW DELHI-110002.

F. No.3(543)/GST/POLICY/2024/1312-18

Dated: 01/03/2024

INSTRUCTION

Sub: Instruction regarding rectification of assessment orders to correct the errors apparent on the face of record u/s 161 of DGST Act, 2017.

Background: Several representations have been received with regard to allowing rectification of demand orders issued by zonal/ field formations on account of difficulties faced by tax payers/ dealers. It is submitted that allowing for rectification reduce the unnecessary litigation. Further, it has been brought to the notice of this Department, that several demand orders passed by Proper Officer pertaining to the FY 2017-18 have apparent errors including clerical/ arithmetical mistakes which can be simply resolved by invoking the provisions of rectifications as available under the DGST Act, 2017.

2. In this regard, the field formations are advised to strictly follow the letter of the law. The provisions of the Act have been reproduced as below:

Section 161. Rectification of errors apparent on the face of record:-

Without prejudice to the provisions of Section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who **has passed or issued any decision or order or notice** or certificate or any other document, **may rectify any error which is apparent on the face of record** in such decision or order or notice or certificate or any other document, **either on its own motion** or where **such error is brought to its notice** by any officer appointed under this Act or an officer appointed under this Act or an officer appointed under the Central Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document.

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.



3. Further, sub-rule (7) of Rule 142 of DGST Rules, 2017 states that
... (7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in FORM GST DRC-08.
4. Following points merits attention of ward officers while invoking the provisions of rectification
- I. It should be ensured that the reasons for initiating suo-moto rectifications are recorded in writing before such proceedings are initiated.
 - II. Where such powers are invoked on the application filed by the registered person, the application should be made within three months of the date of the order. Further, the rectification order in FORM GST DRC-08 should be passed within the period of six months of the date of original order.
 - III. The power of rectification in the order is confined only to mistakes apparent on the face of record. The application for rectification can be made if the mistake is ex facie and the matter does not involve presentation of further arguments or replies or submissions by either counter parties. In simple terms, a decision on the debatable point of law or undisputed questions of fact is not a mistake apparent from the record.
 - IV. Even in certain scenarios the Authority may not have considered the arguments as submitted by the appellant then such missed submissions may also not be considered as mistake apparent on record as in case of supporting documents not considered etc. Therefore, if there are interpretation points on facts of the case or from the law perspective, then it cannot be processed through rectification procedure.
 - V. The rectification may not be done where an appeal is preferred by the registered person to higher appellate forums.
5. Following type cases have been brought to the notice of this department and may be considered for limited purposes rectification under section 161:
- a. Where amount of demand in question has already fully deposited/ reversed vide DRC-03 and adequately informed to the proper officer in the reply filed by the registered person/ dealer but the same has not been taken into consideration at the time of issuance of demand order.
 - b. Where there is arithmetical error i.e. calculation error/ head error i.e. IGST, CGST and DGST in the demand order issued by the proper officer.



6. The field formations are hereby advised to carefully examine the provisions of DGST Act, 2017 and apply their mind while invoking powers of the rectification for all the above cases.

This issues with the prior approval of competent authority.

(Kriti Garg, IAS)
Spl. Commissioner (Policy)

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Copy forwarded for information and necessary action to:

1. All Spl./Addl./Joint Commissioners, Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan, I.P Estate, New Delhi-02.
2. Special Commissioner, (PR), Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan, I.P Estate, New Delhi-02 for publicity of the contents of this circular.
3. Sr. System analyst, IT for uploading the circular on website of the Department.
4. The President/General Secretary, Sales Tax Bar Association(Regd.), Vyapar Bhawan, I.P Estate, New Delhi-02
5. All Assistant Commissioner/GSTOs Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan, I.P Estate, New Delhi-02 through Zonal Commissioners.
6. PS to the Pr. Commissioner, Department of Trade & Taxes, GNCT of Delhi, Vyapar Bhawan I.P Estate, New Delhi-02.

(Anupama Gupta)
GSTO (POLICY)