



Dimensions – 90th Edition

Judgment under GST era

M/s. Sun Dye Chem v. The Assistant Commissioner (ST), Tirupur, and One Other¹

Issue for Consideration

Can an error in the reporting of outward supplies in Form GSTR-1 be rectified after the specified time-limit for rectification or amendment?

Discussion

- The Petitioner is a partnership firm and has filed its returns for the impugned period in Form GSTR-1 and GSTR-3B for the impugned period. However, while reporting the outward transactions in Form GSTR-1, the intra-state sales was erroneously reported as inter-state sales and therefore the tax was reported as IGST instead of CGST plus SGST.
- The error was brought to the notice of the Petitioner by its customers. The Petitioner's request to rectify the error was rejected in August 2019 on the ground that amendment could not be sought after March 31, 2019 for the 2017-18 period, as per notification no. 71/2018-Central Tax dated December 31, 2018.
- Thereafter, the Petitioner filed the present Writ Petition with the Hon'ble High Court of Madras seeking permission to correct Form GSTR-1 for the

impugned period and to redistribute the amount of tax from IGST to CGST plus SGST.

- After perusing the facts of the case and the relevant provisions, the Hon'ble High Court observed as follows:
 - A registered person filing a return must indicate the customer-wise collection of taxes, and thereafter the said details of the customers are auto populated in Form GSTR-2A.
 - Any mismatches between Form GSTR-1 and Form GSTR-2A must be notified by the recipient by means of a tabulation in Form GSTR-1A. However, Forms GSTR-2A and GSTR-1A are yet to be notified as at the present date, and therefore the statutory provision for seamless availment is not available.
 - The Court noted that the Petitioner had erred in filing the details relating to the taxes and, as the result of such an error, the customers of the Petitioner were unable to claim the input tax credit ("ITC") that they were legitimately entitled to.
 - The final date for rectifying Form GSTR-1 for the impugned period was March 31, 2019. The appropriate and timely actions for rectification could not be undertaken, in absence of the

¹ 2020-VIL-523-MAD



Forms GSTR-2A and GSTR-1A. The error was only noticed later when customers brought the same to the attention of the Petitioner.

- In the absence of an enabling mechanism, the assessee should not be prejudiced from availing the ITC that they are legitimately entitled to. The Petitioner committed an inadvertent human error, and it should be able to rectify the same in the absence of any effective enabling mechanism under the statutes.

Judgment

The Hon'ble High Court permitted the Petitioner to re-submit Form GSTR-1, with the correct distribution of CGST, SGST and IGST, and it directed the Respondents to enable the auto-population of the correct details on the GST portal.

Dhruva Comments:

The returns under GST, as originally envisaged, were based on a matching concept whereby the details of outward supply that were reported by a registered taxpayer via Form GSTR-1 were to be matched by the customers via their Form GSTR-2 returns enabling them to seamlessly avail the ITC on the transaction. However, the matching system is not currently in place, which has created difficulties in reconciling the credits.

The ruling provides much-needed relief in cases where the errors were detected after the lapsing of the statutory time period for amending the details of outward supply as provided by the law.

It is also relevant to note that currently, due to the applicability of rule 36(4) of the CGST Rules, 2017, the matching of the ITC with Form GSTR-2A in order to avail the ITC has become mandatory by law. Hence, in the event that the suppliers make errors in reporting the details, it is recommended that the taxpayers availing the ITC proactively follow-up with their suppliers, in order to rectify any errors and to ensure that the

legitimate credit that would otherwise be available to them is not questioned.

Notifications under GST

Amendments to CGST Rules, 2017²

- Rule 59 of the CGST Rules, 2017 is amended w.e.f. January 1, 2021 to provide an optional facility for the taxpayers, required to furnish quarterly Form GSTR-1, to furnish invoice wise details in respect of B2B supplies made up to a cumulative value of fifty lakhs in each of the months, for the first and second months of each quarter using invoice furnishing facility ("IFF"), from 1st day of the month succeeding such month till 13th day of such month. The details of outward supplies reported through IFF shall not be reported while filing Form GSTR-1 for the said quarter.

Dhruva Comments:

Taxpayers who were required to file monthly GST returns were earlier unable to claim the input tax credit ("ITC") received from taxpayers who were required to file quarterly returns as the said ITC was not reflected in their Form GSTR-2A. This led to a blockage of ITC till the time the supplier had filed their quarterly Form GSTR-1.

Hence, the facility of IFF is a welcome step as the taxpayers who file monthly GST returns would now be able to claim the ITC received from taxpayers required to file quarterly GST returns.

- Rule 60 of the CGST Rules, 2017 has been substituted w.e.f. January 1, 2021 whereby the rule removes reference to Form GSTR-2 and provides that outward supply details furnished in Form GSTR-1 and through IFF would be reflected in Forms GSTR-2A, GSTR-4A and GSTR-6A, as the case may be. The rule also specifies that the details of import of goods and goods bought from Special

² Notification no. 82/2020-Central Tax dated November 10, 2020



Economic Zone (“SEZ”) on a bill of entry would also be available in Form GSTR-2A. Furthermore, an auto-drafted summary of ITC in Form GSTR-2B would be available for taxpayers, for every month, prepared on the basis of Form GSTR-1, GSTR-5, GSTR-6, IFF, imports and SEZ supplies. The format of the Form GSTR-2B has also been prescribed by the notification.

- Rule 61(6) has been inserted w.e.f. November 10, 2020 specifying the due date for furnishing Form GSTR-3B as 20th day of the succeeding month.

Furthermore, if the taxpayer’s aggregate turnover is upto ₹5 crores in the previous financial year, then the due date of furnishing Form GSTR-3B for the period October 2020 to March 2021, depending upon the place of business, would be as follows:

Place of business	Due date
States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	22 nd day of the month succeeding such month
State of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	24 th day of the month succeeding such month

[Note - The above specified due dates were earlier provided in notification no. 76/2020-Central Tax dated October 15, 2020 which has now been rescinded vide notification no. 86/2020-Central Tax dated November 10, 2020.]

- Furthermore, w.e.f. January 1, 2021, rule 61 of the CGST Rules, 2017, would be substituted omitting all references to Form GSTR-3 in the pre-substituted rule and providing the following due dates for furnishing Form GSTR-3B:

Class of person	Due date
Monthly return filers	20 th day of the month succeeding such month
Quarterly return filers having principal place of business in the states of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	22 nd day of the month succeeding such quarter
Quarterly return filers having principal place of business in the states of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	24 th day of the month succeeding such quarter

- Rule 61A has been inserted in the CGST Rules, 2017 w.e.f. November 10, 2020 providing the procedure for opting to file quarterly GST returns by the taxpayers having aggregate turnover upto ₹5 crores in the preceding financial year³. Such taxpayers shall make payment of tax for the first two months of the quarter in Form GST PMT-06 by 25th day of the month succeeding such month.

³ Notification no. 84/2020-Central Tax dated November 10, 2020



- A new instruction no. 18 has been added in the Form GSTR-1 whereby it would be mandatory to specify the number of digits of HSN code for goods or services that a class of registered persons shall be required to mention basis the notifications issued from time to time under proviso to Rule 46 of the CGST Rules, 2017.

Extension of due date for furnishing ITC-04⁴

The Government has extended the due date for filing of ITC-04 (i.e. return giving details of goods sent / received from a job worker) for the period July 2020 to September 2020 to November 30, 2020.

[Note – The due date for filing of ITC-04 is 25th day of the month succeeding the quarter. The notification has been made effective from October 25, 2020.]

Amendment in e-invoicing provisions⁵

The Government vide notification no. 61/2020-Central Tax dated July 30, 2020 had increased the limit of the aggregate turnover for issue of e-invoices from ₹100 crores to ₹500 crores in respect of B2B supplies. However, the Government has now notified that w.e.f. January 01, 2021 the limit is again revised back to ₹100 crores.

Dhruva Comments:

With a reset in threshold limit for issuing e-invoices the assesseees would have to quickly re-start the process of upgrading their IT platforms and implement e-invoicing facility.

Due date for filing of Form GSTR-1⁶

- The Government vide notification no. 74/2020 and 75/2020-Central Tax both dated October 15, 2020 had notified the due dates for filing of Form GSTR-

1 for the quarter of October 2020 to December 2020 and January 2021 to March 2021 as January 13, 2021 and April 13, 2021 respectively (where the aggregate turnover was less than ₹1.5 cores) and for the period of October 2020 to March 2021 as 11th day of the month succeeding such month (where the aggregate turnover was more than ₹1.5 cores).

- The Government has now rescinded the above notifications w.e.f. January 1, 2021 to state that Form GSTR-1 for the tax period should be filed by the 11th day of the month succeeding such tax period.
- Furthermore, the time period for filing of Form GSTR-1 returns for the class of persons notified under proviso to section 39(1) of the CGST Act, 2017 shall be 13th day of the month succeeding such tax period (i.e. quarterly return filers).

Circular under GST

Quarterly Return filing along with Monthly Payment of Taxes (“QRMP Scheme”)⁷

- The Government, basis the recommendations of the GST Council in its 42nd meeting held on October 5, 2020 has notified various notifications⁸ in order to enable a registered person having an aggregate turnover of up to ₹5 crores in the preceding financial year to furnish returns of quarterly basis along with payment of tax on monthly basis.
- Some of the features of the QRMP scheme are as follows:
 - The scheme shall be effective from January 1, 2021.
 - If the aggregate turnover exceeds ₹5 crores during any quarter of the current FY, then the registered person shall not be eligible for the scheme.
 - A taxpayer can opt for the scheme for any quarter from first day of second month of

⁴ Notification no. 87/2020-Central Tax dated November 10, 2020

⁵ Notification no. 88/2020-Central Tax dated November 10, 2020

⁶ Notification no. 83/2020-Central Tax dated November 10, 2020

⁷ Circular no. 143/13/2020-GST dated November 10, 2020

⁸ Notification no. 81/82/84/85/2020-Central Tax all dated November 10, 2020



preceding quarter to the last day of the first month of the quarter.

- A taxpayer, for each of the first and second month of a quarter would have the facility (Invoice Furnishing Facility) to furnish the details of such outward supplies to a registered person, as he may consider necessary, between the 1st day of the succeeding month till the 13th day of the succeeding month. The supplies would be reflected in Forms GSTR-2A and GSTR-2B.
- The taxpayer would be required to make the payment of the tax due in each of the first two months of the quarter by depositing the amount due in Form GST-PMT-06 by the 25th day of the month succeeding such month;
- Taxpayer opting for such scheme would be required to furnish Form GSTR-3B by 22nd / 24th of the month succeeding such quarter.





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