



Lawgics

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Section 160 of CGST Act, 2017

160. Assessment proceedings, etc., not to be invalid on certain grounds.

(1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

(2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Our Interpretation

Section 160

Very often proceedings under the Act are questioned for their validity even when there are inadvertent errors. This Section saves the proceedings from such challenge when substantive conformity is found.

Assessment, re-assessment and other proceedings that are listed in this Section will be valid even though there may be:

- Mistake
- Defect or
- Omission,

Provided they are in 'substance' and 'effect' in conformity with the intents, purposes and requirements of the Act.

Proceedings listed in this Section are:

- Assessment
- Re-assessment
- Adjudication

- Review
- Revision
- Appeal
- Rectification
- Notice
- Summons
- Other proceedings

Considering the purpose of this Section, no proceedings under the Act are excluded from the operation of this Section.

It is interesting to see how such a determination will be made that:

- whether deficiency in the proceedings was a mistake, defect or omission or
- whether it is in substance and effect in conformity with the Act.

Further, where a notice, order or communication has been:

- acted upon, or
- Not called into question at the earliest opportunity available,

then the opportunity to call such notice, order or communication into question will not be available in the course of subsequent proceedings.

The **deficiency** that can be so called into question is **limited to notice, order or communication** and not the documents forming part of the other proceedings listed in sub-section (1). Hence, it is important that care needs to be taken while making preliminary objections on jurisdiction and validity of communication.

It is very important NOT to ignore notices, communication and advisories from the tax department.

Section 160(2) places restriction on:

- raising objections if either those objections as to the validity of service of notice were taken up belatedly or
- raising objections if replies were filed on merits leaving objections as to the validity of service of notice unattended.

‘Service of notice’ is not limited to:

- Service of notice, BUT
- Service of VALID notice
- Service of valid notice under VALID Section
- Service of valid notice under valid section by VALID Proper Officer

It is important NOT to ignore notices, communication and advisories from the tax department.

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