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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 4108/2015 & CM No.7435/2015

TECHNO CONCEPT INDIA PVT. LTD. ..... Petitioner
Through: Mr. Rama Shankar & Ms. Kamlesh, Advocates.

versus

THE DEPUTY COMMISSIONER OF SERVICE TAX, DELHI-I ..... Respondent
Through: Mr. Harpreet Singh, Senior Standing Counsel with Mr. Gagan Kumar Singhal, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE NAJMI WAZIRI

O R D E R

% **12.07.2016**

1. The Petitioner is engaged in the business of hardware and provision of software computer services on the placing of orders. The Service Tax Department introduced the Voluntarily Compliance Encouragement Scheme (VCES) in 2013. The Petitioner, for the period 1st April 2011 to 31st December 2012, applied under the VCES and declared a service tax liability of Rs.10,95,191/-. The Petitioner deposited 50% of the said amount, i.e., Rs.5,38,690/-, on 30th December 2013 and Rs.8,910/- on 31st December, 2013. The remaining 50 %, i.e., Rs.5,47,596/- was deposited on 30th June, 2014.

2. On 26th December 2014, the Petitioner received a communication from

the Respondent stating therein that the Petitioner's application under the VCES has been rejected. The reason was that the Petitioner had calculated and deposited tax @ 10.3% whereas the tax had to be calculated @ 12.36%. In other words, the Petitioner had to pay Rs.1,080/- in addition to what he had already deposited. It is on account of the above rejection of the Petitioner's application by the letter dated 26th December, 2014 of the Respondent that the Petitioner has filed the present writ petition seeking quashing of the above rejection and for a direction to the Respondent to accept the declaration of the Petitioner under the VCES.

3. Learned counsel for the Petitioner states that the actual shortfall in the deposit of service tax does not work out to even 0.1% and applying the *de minimis* principle, the lapse of the Petitioner should be overlooked.

4. The Petitioner does not dispute that on the date of raising the invoice for rendering services, the rate of tax stood revised to 12.36%. Counsel for the Petitioner refers to the date of the purchase order, i.e., 30th March 2012, on which date admittedly the rate was 10.3%. This overlooks the fact that the Petitioner's invoice was raised on 30th April 2012 by which date, admittedly, the rate of service tax stood revised to 12.36%. The service was rendered thereafter.

5. It was not obligatory for the Respondent to inform the Petitioner what the correct rate of service tax was. It was for the Petitioner to have ascertained the correct rate of tax and calculated the service tax liability accordingly.

6. There is no provision in the VCES, which permits correction of errors of

this nature by the Petitioner. In this writ petition, the Court is called upon to examine if the Respondent has committed any legal error in rejecting the application of the Petitioner under the VCES. The Court is unable to find any such error either in fact or in law. Consequently the relief prayed for by the Petitioner cannot be granted.

7. The writ petition is dismissed.

S.MURALIDHAR, J

NAJMI WAZIRI, J

JULY 12, 2016
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