

20.12.2023

Sl no. 13

Ct no. 2

P.M.

WPA 27326 OF 2023

Techno Waxchem Private Limited
- Vs -
The Goods and Services Tax Council & Ors.

Mr. Debanuj Basu Thakur

... for the petitioner

Mr. Vipul Kundalia,

Mr. Tapan Bhanja

... for CGST Authorities.

Mr. Anirban Ray, Ld. Govt. Pleader

Md. T. M. Siddiqui,

Mr. T. Chakraborty,

Mr. S. Sanyal

... for the State.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has prayed for relief of direction upon the respondent GST authority concerned to allow the petitioner to amend the GSTR-1 Form either manually or online as per Section 38(5) of the GST Act, 2017.

Petitioner submits that the mistake in filing the aforesaid Form was genuine and bonafide.

Mr. Kundalia, learned advocate for the respondent GSTN authority concerned submits that petitioner was already given opportunity to correct the mistake once and this is the second time petitioner has committed mistake and this case should not be considered.

Learned advocate for the petitioner in support of his contention relies on a Division Bench judgement of this Court dated 31st March, 2023 in the case of *Abdul Mannan Khan – Vs – The Goods and Services Tax Council & Ors. (FMA 142 of 2022 with CAN 2 of 2021)* particularly on paragraph 24 of the said order which is quoted hereunder :

“24. In the light of the above, the appeal stands allowed and the order passed in the writ petition is set aside and the writ petition stands disposed of by directing the appropriate respondent to permit the appellant to file corrected GSTR-1 Form manually and the appropriate authority of the respondent department is directed to receive the forms manually and requisite details shall be uploaded in the web portal of the department within a period of six weeks from the date of such manual forms are submitted. Consequently, the connected application stands disposed of.”

Mr. Kundalia submits that in the case of the order of the Division Bench relied upon by the petitioner there was mistake once and not twice.

However, in the interest of justice and considering the aforesaid Division Bench judgement this writ petition being WPA 27326 of 2023 is

disposed of by directing both the State and Central GST authority concerned to allow the petitioner to file corrected GSTR-1 Form manually and shall take all necessary steps after receipt of such corrected Forms to be filed by the petitioner, by observing the guidelines laid down by the Division Bench of this Court in the order dated 31st October, 2023. However, since the petitioner is not an individual and it is a company and it must have been availing services of the legal professionals and tax consultants, such mistake cannot be condoned unconditionally and as such it shall pay the cost of Rs. 25,000/- to the High Court Legal Services Committee, Calcutta, within ten days from date and shall file proof of payment of the same along with the corrected GSTR-1 Form.

This order has been passed allowing the petitioner to file corrected GSTR-1 Form in view of exceptional facts and circumstances.

(Md. Nizamuddin, J.)