

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13809 of 2022

M/s Kamladityya Construction Pvt Ltd through its authorized representative, Sri Binod Kumar Singh, male, aged about 52 years, son of Late Krisnadeo Narayan Singh, office at Geetanjali Pump House Road, Puniachak, Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Tax, Bihar, Commercial Tax Department, Ground Floor, Vikas Bhawan, Baily Road, Patna- 800 001, Bihar
2. The Joint Commissioner of State Tax, Bihar, Kautilya Bhawan, Anta Ghat, Patna- 800004, Bihar.
3. The Union of India, through the Office of the Commissioner Central GST and Central Excise, Patna- 1, 3rd Floor, C.R. Building, (Annexe), Birchand Patel Path, Patna- 800 001, Bihar.
4. The Assistant Commissioner, Office of the Assistant Commissioner, CGST and CX, Patna (Central) Division, Ground Floor, Chandpura Palace, Bank Road, West Gandhi Maidan, Patna- 800 001, Bihar, The Additional Secretary, Office of the Goods and Service Tax Council 5th Floor, Tower II, Jeevan Bharthi Building Janpath Road, Connaught Place, New Delhi- 110 001
5. The Special Secretary, Office of the Goods and Service Tax Council 5th Floor, Tower II, Jeevan Bharthi Building Janpath Road, Connaught Place, New Delhi- 110 001
6. The Director, Office of the Goods and Service Tax Council 5th Floor, Tower II, Jeevan Bharthi Building Janpath Road, Connaught Place, New Delhi- 110 001
7. The Joint Secretary, Office of the Goods and Service Tax Council 5th Floor, Tower II, Jeevan Bharthi Building Janpath Road, Connaught Place, New Delhi- 110 001
8. Director in Charge (Finance), Industrial Development Authority, 1st Floor, Udyog Bhawan, East Gandhi Maidan, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Archana Sinha @ Archana Shahi, Adv
For the State	:	Mr.Vikash Kumar (SC 11)
For the UOI	:	Dr. Krishna Nandan Singh (ASG)
		Mr. Anshuman Singh Sr. SC, CGST&CX
For IDA	:	Mr. Parth Gaurav, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-03-2024

An inadvertent human error while filing a return, is sought to be corrected in the present writ petition; which is resisted by the Department on the ground of limitation having set in and also the digital platform on which returns, applications of refund etc., are filed, by reason of sheer passage of time, having foreclosed the remedy to rectify the error occasioned.

2. On facts it is to be noticed that the petitioner is a Private Limited Company engaged in construction work and registered as a works contractor under the Goods and Services Tax enactment. The petitioner's concern is with the assessment year 2018-19, 2019-20 and 2020-21 when they have executed construction work in favour of the Industrial Development Authority ('IDA' for short) who is also subsequently impleaded as 8th respondent.

3. The petitioner had filed returns for the subject assessment years on the due date and had also discharged its tax liability. While filing the returns, as against the input tax credit, the petitioner had inadvertently shown the TDS number of the awarder who deducted tax from the payments due to the petitioner, in place of the awarder's GST number. The mistake



has been explained by the petitioner through a tabular statement in the representation made on 23.08.2022 produced in the writ petition as Annexure-1. The correct GST number of the awarder was 10AAAJI0499M1Z6 in lieu of which, the TDS number of the awarder was shown, which is 10AAAJI0499M1DF. The input tax claim for the said assessment years were declined. The very same mistake had occurred in the next year i.e. 2021-22 which was rectified within time. The petitioner claims rectification for the earlier years also.

4. Mrs. Archana Sinha, learned Counsel for the petitioner points out that it was a human error and the same could be rectified. The learned Counsel would also rely on a Division Bench Judgment of the High Court of Jharkhand at Ranchi in *WP(T) Nos. 2478 of 2021 dated 18.10.2022; Mahalaxmi Infra Contract Ltd. Vs. Goods and Services Tax Council and Ors.*

5. Mr. Vikash Kumar, learned Government Advocate and Dr. K.N. Singh, learned ASG, relied on the limitation as per the Act for claiming refund and argued that there was an enabling provision to revise the returns but within the period stipulated; within which the petitioner did not approach the authorities.



6. The Division Bench of the Jharkhand High Court considered an almost similar matter, where the petitioner had sought for amendment to its GSTR-1. The assessee therein had sought for an amendment in GSTR-1 for the month of January-2019, wherein, a wrong GSTIN number was mentioned in the invoices raised on respondent no. 5. By a mistake the GSTIN number was of the petitioner's own joint venture, for reason of which input tax credit was declined to the 5th respondent. Noticing the facts especially that of the input tax credit have been reflected in the portal of the Department in favour of the 6th respondent, which was rightly not claimed by the said respondent; it was directed that correction may be facilitated which does not cause any prejudice to the revenue on grounds of monetary loss and directed the portal to be opened for a limited period with communication to the petitioner and if that is not possible for technical reasons, to enable the petitioner to make such correction through manual mode.

7. The reliance on the digital mode is for expeditious and seamless completion of proceedings and it cannot lead to foreclosing of human intervention when it is expedient and imperative. The introduction of the digital mode should not only enable due assessment and recovery of taxes,



but also should ensure and facilitate the smooth business processes of the assesses. Unless the businesses are carried out, the State would not obtain its revenue and it is essential for such revenue collection that the assesses are also not put to difficulties because of technical issues of a venial nature; which if not possible of correction on the digital mode, then it should be made possible by human intervention. this is the spirit and tone of the judgment of the High Court of Jharkhand at Ranchi; which we respectfully follow.

8. Admittedly, the denial of input tax claim was only due to the wrong mentioning of GSTIN number; which has been established to be a bonafide mistake arising out of human error. The IDA who was the awarder and who deducted the tax and paid it to the department is also made a party, though subsequently, as the 8th respondent. We have heard learned Counsel for the 8th respondent, who admits that the deductions as pointed out by the petitioner were made by the IDA from the disbursement of amounts for the works contract carried out by the petitioner and paid over to the Department, for which the petitioner could make a valid claim for input tax credit. There would be no loss caused to the State and if the refund is not effected there is every chance of the petitioner's company



closing down, considering the huge refund which would not be granted to the petitioner, putting the very business in doldrums. This is a peculiar and special circumstance in which, even if there can be no facilitation of an online rectification, it should be done physically and the amounts eligible for refund disbursed.

9. We make it clear that we have not specified the quantum of input tax credit nor does it go by the admission of the 8th respondent that deductions as pointed out by the petitioner were made from the proceeds of the contract and paid up to the State Government. The assessing officer would be entitled to look into the specific deductions claimed and verify it with the returns filed by the 8th respondent; specifically the tax deductions made at the source and enable the claim of refund which is possible under law.

10. We direct the petitioner to make a representation to the respondent authorities upon which, as directed by the High Court of Jharkhand at Ranchi, the respondent authority shall facilitate opening of the portal for a limited period, with due intimation given to the petitioner and if that is not possible allow the petitioner to make rectification on manual mode.



11. With the above directions, the writ petition
stands allowed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

