130 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

2024:PHHC:030215-DB
CWP-5029-2024 (O&M)
Date of Decision: 04.03.2024

M/s Balaji Service Agency …Petitioner

Vs.

Assistant Commissioner of Central Taxes and another …Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present Mr. Nikhil Goyal, Advocate for the petitioner.

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SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this writ petition challenges the order passed by the authorities refusing the rectification/correction in order passed under Section 74(3) of the Service Tax Act, 1994.

2. Learned counsel submits that there has been an apparent mistake in the record and the amount which has already been paid as service tax, was required to be discounted and the same was required to be rectified. However, the respondents have wrongfully rejected the application without application of mind merely stating that the order has already been passed.

3. After taking into consideration the submissions, we find that if the respondents have refused or rejected the application under Section 74(3) of the Act, the original order as well as the rejection order can also be challenged in appeal. The appellate authorities can also look into the factual aspects including the wrongful addition allegedly made by the authorities while imposing higher tax. The writ petition would not be maintainable in view of availability of efficacious alternative remedy.

4. Granting liberty to the petitioner, the writ petition is dismissed.

5. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

04.03.2024
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1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No