220(6) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:164471-DB

CWP-15400-2024 (O&M)
Date of Decision: 10.12.2024

M/s North Agro Industries Pvt. Ltd., Sangrur Road, Dirba, District Sangrur (Punjab).

…Petitioner

Vs.

Union of India and others …Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Vikrant Kackria, Advocate for the petitioner.

Mr. Sunish Bindlish, Sr. Standing Counsel for the revenue.

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SANJEEV PRAKASH SHARMA, J.(Oral)

1. Learned counsel for the petitioner refers to circular issued by the Ministry of Finance, dated 15.10.2024, wherein, the issue regarding implementation of the provisions of sub-Sections (5) and (6) of Section 16 of the Central Goods and Services Tax Act, 2017 (for short 'CGST Act'), which has been inserted vide the Finance Act, 2024 with retrospective effect from 01.07.2017, has been clarified. As per the aforesaid circular, time limit to avail input tax credit under the provisions of sub-Section (4) of Section 16 of the CGST Act, has been extended retrospectively. Resultantly, it has been clarified that in cases where action has been taken under Sections 73 or 74 of the CGST Act or orders have been passed in appeal under Section 107 or Section 108 of the CGST Act, holding wrong availment of the input tax credit, the concerned tax payer has been allowed to move application for rectification of such order.

2. As per the special procedure laid down under Section 148 of the Act as notified vide notification No.22/24 dated 08.10.2024, the taxpayers would be allowed to move application for rectification within six months from the date of issuance of notification i.e. 15.10.2024, thus, upto 15.04.2025 rectification application can be moved. It would be apposite to quote para 3.5 of notification dated 15.10.2024, which reads as under:-

> *"Where order under section 73 or section 74 of the CGST Act has been issued but no appeal against the said order has been filed with the Appellate Authority, or where the order under section 107 or section 108 of the CGST Act has been issued by the Appellate Authority or the Revisional Authority but no appeal against the said order has been filed with the Appellate Tribunal:*
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> *In such cases, where any order under section 73 or section 74 or section 107 or section 108 of the CGST Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed, the concerned taxpayer may apply for rectification of such order under the special procedure under section 148 of the CGST Act notified vide Notification No. 22/2024 – Central tax dated 08.10.2024, within*

a period of six months from the date of issuance of the said notification."

3. Keeping in view the above, we dispose of this writ petition and allow the petitioner to move an application accordingly. It is expected that if any such application for rectification is moved, the same shall be decided keeping in view the provisions of sub-Sections (5) and (6) of Section 16 of the CGST Act, 2017. The writ petition is accordingly disposed of.

4. All pending misc. application(s) also stand dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

10.12.2024
rajesh

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