



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

CWP No. 25343 of 2023 (O&M)

Reserved on : 06.11.2024
Date of Pronouncement : 14.11.2024

Bar Code India Limited	Versus	...Petitioner
Union of India and others		...Respondents

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

Present: Mr. Simarpal Sawhney, Advocate and
Mr. Rahul Makkar, Advocate, for the petitioner.

Mr. Ajay Kalra, Senior Standing Counsel for the respondents.

SANJEEV PRAKASH SHARMA, J.

The short question involved in the present case is whether the petitioner can be permitted to rectify/ amend the GST number of the purchaser in GSTR-1 return with respect to the invoices dated 13.05.2021 (on account of human error) for the quarter ending 30.06.2021 after the limitation period is expired in terms of Section 37(3) of the Central Goods and Services Tax Act, 2017 (for short, 'the Act').

2. Learned counsel for the petitioner submitted that the petitioner company is a limited company and was registered with GSTIN No. 06AAACB2892A1Z5. It is dealing with solutions in Enterprise Mobility, Bar Coding, RFID and EWLAN for supply chain and asset management in the retail, manufacturing and logistics market verticals.

3. Pursuant to the order placed by purchaser FedEx Express Transportation & Supply Chain Services (India) Private Limited, the



petitioner company issued invoices to the purchaser for financial year 2021-2022 where erroneously at the time of filing of GSTR-1 return, the petitioner company made certain inadvertent errors by mentioning the point of sale as Mumbai instead of Delhi and also mentioned the GST number of the receiver/ purchaser of Mumbai instead of GST number of the purchaser in Delhi.

4. Learned counsel for the petitioner submits that the aforesaid errors in the GSTR-1 return filed the petitioner came to their knowledge after the concerned purchaser notified the error to them somewhere in the month of April 2023 as they found difficulty to avail GST input tax credit. The purchaser further refused to clear the other invoices of the petitioner. Immediately, thereafter the petitioner sent letter dated 18.08.2023 to respondent no.3 praying for allowing them to make necessary amendments in their return relating to the three invoices issued on 13.05.2021. The Revenue, however, rejected the prayer on account of there being no provision to make amendments after the time period laid down under the Rules had expired. There was no provision also to make amendments by a manual request.

Learned counsel for the petitioner submits that the petitioner company ought not be made to suffer on account of inadvertent human error which is apparent on the face of the record having occurred without there being any deliberation on part of the petitioner. The business of the petitioner company is seriously affected on account of the said refusal to make the correction.

5. Learned counsel for the petitioner relies on judgments of Karnataka High Court in WP No. 2911 of 2022 - **M/s Orient Traders vs The**



Deputy Commissioner of Commercial Taxes and another, decided on 16.12.2022, Jharkhand High Court in WP (T) No. 2478 of 2021 - **M/s Mahalaxmi Infra Contract Limited vs GST Council and others,** decided on 18.10.2022; Madras High Court in WP No. 4458 of 2019- **M/s Interplex Electronics India Private Limited vs The Assistant Commissioner of State Tax and another** decided on 15.06.2022; Kolkata High Court in **Price Waterhouse Coopers Private Limited vs CIT, Kolkata-1** (2012) 11 SCC 316; and Bombay High Court in WP No. 15368 of 2023 **Star Engineers (I) Private Limited vs Union of India and others** decided on 14.12.2023.

6. The reply has been filed on behalf of the respondents and learned counsel per contra submits that last date for rectification of error or omission in terms of Section 37(3) of the Act for the A. Y. 2021-2022 was 30.11.2022. It is submitted that the petitioner ought to have been cautioned enough in checking its monthly returns and prior to filing of annual return, it could have easily rectified in GSTR-1 as the common portal allows rectification of such errors till the filing of annual return.

7. Learned counsel for the respondents submits that the Act allows ample time to rectify the errors. The time limit as laid down in Section 37(3) of the Act cannot be allowed to be altered for a particular company and they will have to bear the loss as no general rule can be laid down and there cannot be an open ended time frame for corrections/ rectifications. He submits that the time frame has been aligned with the further time provided for furnishing of audit report for the respective financial years. There is a cascading effect on the other processes and it is important to conclude the entire process in the timeline.



8. It is submitted by learned counsel for the respondents that merely by rectifying Form GSTR-1 at this stage would not automatically allow the concerned recipient tax payer to claim ITC now as the same has also become time barred in terms of Section 16 (4) of the Act. It is further pointed out that after submitting GSTR-1 by the supplier, GSTR-2A auto generates for the recipient supplier. The same becomes a basis for claiming input tax credit under the GSTR-3B. Thus, input tax credit can be availed till the date on furnishing of the return as provided under Section 39 of the Act i.e. by the month of September following the end of financial year for which the invoice or debit note pertains or the date when the relevant annual return is furnished, whichever is earlier. The correction in the corresponding GSTR-1, therefore, is permissible in terms of the aforesaid timeline.

9. Learned counsel for the respondents further submits that the issue as raised in the present petition stands finally adjudicated by Hon'ble the Supreme Court in **Union of India (UOI) vs Bharti Airtel Limited and others** (2022) 4 SCC 328.

10. We have considered the submissions.

11. Section 16 (4); Sections 37 (1); 37 (3) and 39 of the Act provide as under:-

“16. Eligibility and conditions for taking input tax credit.

xxx

xxx

xxx

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November] following the end of financial year to which such invoice or [xxx] debit note pertains or furnishing of the relevant annual return, whichever is earlier:



[PROVIDED that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.

Section 37 - Furnishing details of outward supplies

“(1) Every registered person, other than an Input Service Distributor, a non- resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, [subject to such conditions and restrictions and] in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details [shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies]: [xxx]

[PROVIDED that] the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

[PROVIDED FURTHER that] any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.”

Section 37(3) in The Central Goods and Services Tax Act, 2017



“(3) Any registered person, who has furnished the details under sub-section (1) for any tax period [xxx], shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

PROVIDED that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after the thirtieth day of November] following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier:

[PROVIDED FURTHER that the rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018 till the due date for furnishing the details under sub-section (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.]”

Section 39 of The Central Goods and Services Tax Act, 2017

39. Furnishing of returns.- *(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:*

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein



(2) A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.

(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.

(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.

(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, electronically, within thirteen) days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.

(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub- section (5),



shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to section (1) shall pay to the Government, in such form and manner, and within such time, as may be prescribed,-

- (a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, or*
- (b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.)*

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.]

(8) Every registered person who is required to furnish a n a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

(9) Where any registered person after furnishing a return under sub-section (1) or sub section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars "fin such



form and manner as may be prescribed), subject to payment of interest under this Act Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due the thirtieth day of November] following [the end of the financial year to which such details pertain), or the actual date of furnishing of relevant annual return, whichever is earlier.

(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods "for the details of outward supplies under sub-section (1) of section 37 for the said tax period has not been furnished by him Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period.

(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return: Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a he return for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return.

12. From the aforesaid provisions, it is apparent that the process as submitted by learned counsel for the Revenue is complete in itself and each step precedes the earlier step. If one of the steps is erroneous and the same is not corrected or rectified within the timeline provided under the provisions, a



cascading effect would occur to the subsequent process provided under the subsequent provisions. We are satisfied from the aforesaid provisions that if a person submits an erroneous GSTR-1, and does not correct it, the subsequent GSTR-2A and GSTR-3B would also reflect the erroneous information and the consequences thereof shall follow.

13. We find that the time limitation, as provided under Section 37(1) and 37(3) of the Act, is linked directly and proportionately to Section 16 (4) of the Act. In terms of the aforesaid provisions, input tax credit can be availed till the due date of furnishing the return under Section 39 of the Act for the month of September following the end of the financial year to which the invoice / debit note pertains or furnishing of the annual return, whichever is earlier. The correction in the corresponding GSTR-1 is permissible in terms of the timeline as specified in Section 16 (4) of the Act.

14. On careful examination of the facts, it clearly emerges that the petitioner could not detect the error of mentioning the point of sale as Mumbai instead of Delhi and the mentioning of the GST number of purchaser of Mumbai instead of GST number of purchaser of Delhi which has resultant, as per his submissions, loss to the concerned purchaser, who could not avail the ITC. Last date of submission for rectification/ omission, admittedly falls on 30.11.2022 for the concerned petitioner.

15. The observations made by Bombay High Court in **Star Engineers (I) Private Limited** (supra), relied upon by learned counsel for the petitioner, particularly in paras 12 and 13, are as under:-

“12. Having considered the statutory ambit of Section 37, 38 and 39, we are of the clear opinion that the



provisions of sub-section (3) of Section 37 read with Section 38 and sub-sections (9) and (10) of Section 39 need to be purposively interpreted. We cannot read sub-section (3) of Section 37 to mean that the assessee would be prevented from placing the correct position and having accurate particulars in regard to all the details in the GST returns being filed by the assessee and that there would not be any scope for any bonafide, and inadvertent rectification / correction. This would presupposes that any inadvertent error which had occurred in filing of the returns, once is permitted to be rectified, any technicality not making a window for such rectification, ought not to defeat the provisions of sub-section (3) of Section 37 read with the provisions of sub-section (9) of Section 39 read de hors the provisos.

13. *In our opinion, the proviso ought not to defeat the intention of the legislature as borne out on a bare reading of subsection (3) of Section 37 and sub-section (9) of Section 39 in the category of cases when there is a bonafide and inadvertent error in furnishing any particulars in filing of returns, accompanied with the fact that there is no loss of revenue whatsoever in permitting the correction of such mistake. Any contrary interpretation of sub-section (3) of Section 37 read with sub-sections (9) and (10) of Section 39 would lead to absurdity and / or bring a regime that GST returns being maintained by the department having incorrect particulars become sacrosanct, which is not what is acceptable to the GST regime, wherein every aspect of the returns has a cascading effect. This is necessarily required to be borne in mind when considering the cases of inadvertent human errors creeping into the filing of GST returns.”*



16. The Bombay High Court also noticed that the Single Judge of Madras High Court in **Sun Dye Chem vs Assistant Commissioner vs Assistant Commissioner (ST) and others** 2020 TIOL 1858 HC MAD.GST held that the customers of the assessee should not be prejudiced from availing credit which they are otherwise legitimately entitled to. It also relied on Division Bench judgment of Orissa High Court passed in **Shiva Jyoti Construction vs The Chairperson, Central Board of Excise & Customs and others** MANU/OR/0522/2023 wherein the Court observed that if no prejudice has been caused to the department, such error ought to be rectified.

17. In **Bharti Airtel's** case (supra), the Supreme Court was considering the question of similar nature. In the said case, the Bharti Airtel has erroneously deposited cash and submitted that if it was allowed to rectify Form GSTR-3B so as to avail ITC for the relevant period, amount paid by it in cash towards the OTL would get credited to its electronic cash ledger account. After considering the provisions of Section 39 of the Act, which relates to the final return being filed under Form GSTR-3B, it proceeded to set aside the order passed by the Delhi High Court observing as under:-

“32. Reverting to the analysis of the issues and contentions done by the High Court, it is primarily focused on the grievance of the writ petitioner that due to non-operability of Form GSTR-2A at the relevant time (July to September 2017), it had been denied of access to the information about its electronic credit ledger account and consequently, availing of ITC for the relevant period and instead to discharge the OTL by paying cash to its vendors. Thus, it has resulted in payment of double tax and unfair advantage to the tax authorities because of their failure to operationalize the statutory forms enabling auto



populating statement of inward supplies of the recipient and outward supplies including facility of matching and correcting the discrepancies electronically. The High Court, however, did not enquire into the cardinal question as to whether the writ petitioner was required to be fully or wholly dependent on the auto generated information in the electronic common platform for discharging its obligation to pay OTL for the relevant period between July and September 2017. The answer is an emphatic No. In that, the writ petitioner being a registered person, was under a legal obligation to maintain books of accounts and records as per the provisions of the 2017 Act and Chapter VII of the 2017 Rules regarding the transactions in respect of which the OTL would occur. Even in the past (till recently upto the 2017 Act came into force), during the pre-GST regime, the writ petitioner (being registered person/assessee) had been maintaining such books of accounts and records and submitting returns on its own. No such auto-populated electronic data was in vogue. It is the same pattern which had to be followed by the registered person in the post-GST regime.

Thereafter, Hon'ble the Supreme Court dealt with Section 16 of the Act and held as under:-

“48. A priori, despite such an express mechanism provided by Section 39(9) read with Rule 61, it was not open to the High Court to proceed on the assumption that the only remedy that can enable the assessee to enjoy the benefit of the seamless utilization of the input tax credit is by way of rectification of its return submitted in Form GSTR3-B for the relevant period in which the error had occurred. Any unilateral change in such return as per the present dispensation, would have cascading effect on the recipients and suppliers associated with the concerned transactions. There would be complete uncertainty and no finality could ever be attached to the self-assessment



return filed electronically. We agree with the submission of the appellant that any indulgence shown contrary to the statutory mandate would not only be an illegality but in reality, would simply lead to chaotic situation and collapse of tax administration of Union, States and Union Territories. Resultantly, assessee cannot be permitted to unilaterally carry out rectification of his returns submitted electronically in Form GSTR-3B, which inevitably would affect the obligations and liabilities of other stakeholders, because of the cascading effect in their electronic records.

49. *As noted earlier, the matching and correction process happens on its own as per the mechanism specified in Sections 37 and 38, after which Form GSTR-3 is generated for the purposes of submission of returns; and once it is submitted, any changes thereto may have cascading effect. Therefore, the law permits rectification of errors and omissions only at the initial stages of Forms GSTR-1 and GSTR-3, but in the specified manner. It is a different dispensation provided than the one in pre-GST period, which did not have the provision of auto-populated records and entries.”*

18. It is noticed that as soon as the supplier files GSTR-1 mentioning the invoice amount, place of sale and the GSTR Number, the system auto generate GSTR-2A of the recipient of the supplier, which is the basis for claiming input tax credit through GSTR-3B.

19. As per Section 16 (4) of the Act, a registered person shall not be entitled to take input tax credit after the due date of furnishing of the return under Section 39 of the Act for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier. Thus, ITC can



be availed till the due date of furnishing of the return. If there is a correction in the corresponding GSTR-1 within the timeline, ITC would be permissible in terms of the timeline specified in Section 64 of the Act, therefore, the petitioner cannot be permitted to rectify the return beyond the statutory time limit prescribed under the GST Act. Even if the petitioner is allowed to rectify the return now, there will not be an automatic benefit of income tax credit, which the purchaser can claim. Had the petitioner detected its error prior to filing of annual return, it could have simply rectified the same in the GSTR-1 for that month as the common portal allows rectification of such error till the filing of the annual return.

20. Thus, we find the ratio of the judgment passed by Hon'ble the Supreme Court in **Bharti Airtel**'s case (supra) would also apply at the stage of committing error while submitting final return under GSTR-1. We further hold that merely because of an error being committed by a particular company, which causes loss to the purchaser company, the provisions of the Act need not be interpreted to suit them. The law is settled that a person who is engaged in business has to be well versed with the provisions of law including the time frame provided under the said provisions. Both the companies, as asserted by the respondents, are engaged in business since long and if they have committed an error, the law cannot be changed for giving them any such benefit.

21. Keeping in view the law as settled by Hon'ble the Supreme Court in **Bharti Airtel**'s case (supra), we do not find any reason to follow the view taken by Bombay High Court in **Star Engineers (I) Private Limited**'s case (supra) and the other judgments cited by learned counsel for the petitioner.



22. We accordingly reject the claim of the petitioner for correction of the return. The writ petition is found to be without any force and is accordingly dismissed.
23. All pending applications stand disposed of.
24. No costs.

(SANJEEV PRAKASH SHARMA)
JUDGE

14.11.2024
vs

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No