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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-32712-2024 (O&M)
Date of Decision:04.12.2024

M/S. KANHA JI INDUSTRIES ....*Petitioner(s)*

V/s.

STATE OF HARYANA AND OTHERS ....*Respondent(s)*

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

Present Ms. Vibhooti Malhotra, Advocate,
Ms. Vidhi Malhotra, Advocate and
Mr. Vardaan Malhotra, Advocate for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana,
for respondent No.1.

Ms. Pridhi Sandhu, Junior Standing Counsel and
for the respondents No.2 and 3

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. Notice of motion.

2. Ms. Mamta Singla Talwar, DAG, Haryana, accepts notice on behalf of respondent No.1-State and Ms. Pridhi Sandhu, Senior Standing Counsel, accepts notice on behalf of respondents No.2 and 3.

3. Heard learned counsel for the parties.

4. Learned counsel for the petitioner has submitted that against the order in original dated 26.03.2024 passed by the respondents, a rectification application was moved by the petitioner on 10.04.2024, wherein it was stated that the Taxable Person had voluntarily paid tax amounting to ₹13,09,998/- through Form DRC-03, but the same had not been taken into consideration in the order-in-original, and payments were not reflected and considered, instead a demand of ₹14,49,022/-, with interest and penalty, had been imposed on the petitioner. Pointing it out as an error apparent on the face of record, the petitioner, by way of this Writ Petition, has prayed for rectification of order dated 26.03.2024 in terms of Section 161 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the Act").

5. Learned counsel for the petitioner has invited our attention to the order dated 15/17.05.2024 passed in the rectification application, wherein the concerned authority namely; the Additional Commissioner, CGST, Commissionerate, Panchkula noticed the provisions of Section 161 of the Act and without eluding to the averments made in the application for rectification, proceeded to reject the application with further advisory to the petitioner to file an appeal against the order-in-original. It only stated that the order-in-original was passed after considering documents available on record and there being no need to rectify it.

6. Faced with the said order passed in the rectification application, learned counsel for the respondents have candidly stated that the rectification application can be decided afresh by examining it on merits.

7. We appreciate the same. Therefore, we propose to dispose of this Writ Petition at this stage and direct the Officer/Authority concerned to examine the rectification application filed by the petitioner on 10.04.2024 with respect to order dated 26.03.2024, purely on merits, in terms of rectification provisions provided under Section 161 of the Act. If it is noticed that some aspect has not been considered in the order-in-original, the same may be looked into and a fresh order may be passed. If still, the petitioner is aggrieved, it would be allowed to avail the remedies available in law.

8. With the aforesaid observations, this Writ Petition is ***disposed of***.

9. All pending applications also stand disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

[SANJAY VASHISTH]
JUDGE

December 4, 2024
Ess Kay

Whether speaking / reasoned	:	*Yes*	/	*No*
Whether Reportable	:	*Yes*	/	*No*