IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2025

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THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No.1091 of 2025
and CMP Nos.8682, 8684, 8685 of 2025

1.The Principal Chief Commissioner of GST and Central Excise
26/1 Uthamar Gandhi Road
Nungambakkam
Chennai, Tamil Nadu-600 034.

2.The Superintendent of GST
Ward II A Central Excise Coimbatore.

3.Goods and Services Tax Network (GSTN)
East Wing, 4th Floor, Word Mark
I Aerocity, New Delhi-110 037. : Appellants

Vs

Deepa Traders
81-C Railway Line Street (South).
Ganapathypudur
Coimbatore-641 006. : Respondent

Prayer: Appeal filed against the order passed by learned Single Judge in WP No.12382 of 2020 dated 09.03.2023.

For Appellants : Mr.A.P.Srinivas,
SSC

For Respondent : Mr.Aditya Reddy

JUDGMENT
(Judgment of the Court was
delivered by the Hon'ble Chief Justice)

WMP No.8682 of 2025 filed to condone the delay of 86 days in filing the appeal and WMP No.8684 of 2025 filed to condone the delay of 540 days in paying deficit Court fees stand allowed.

2. The appeal impugns an order dated 9 March 2023 passed by the learned Single Judge, in which paragraphs 2 to 6 read as under:

> *"2. The petitioner has, in respect of the returns for a few months during the period 2017-18, admittedly, committed certain errors. The errors are of following nature.*
> *i) Recipients GSTIN/name has been wrongly mentioned.*
> *ii) The invoice number/date have been wrongly mentioned.*
> *iii) Supply details were correctly supplied in GSTR 3 and tax duly remitted. However, some of the invoice wise details have been omitted to be reported in Form GSTR 1.*
> *iv) IGST was inadvertantly remitted under the*

heads SGST and CGST.

3. The aforesaid errors are attributed to inadvertent carelessness on the part of a part-time accountant then employed by the petitioner. The petitioner would also state that the errors had been occasioned during the initial months of implementation of Goods and Services Tax and thus it had also no knowledge of the conditions fully to meet the demands of the system. It was the unfamiliarity with the procedures and the newness in the system itself that had resulted in the commission of these errors.

4. It was only in December, 2019 that the petitioner states that these errors came to light on account of the customers bringing the same to its attention. Admittedly, no details of such reports by the customers have been placed on file, though the averment figures at paragraph Nos. 5 and 6 of the affidavit of the petitioner. At paragraph 7, the petitioner states that immediately on coming to know of the errors, an attempt was made to rectify the returns only to find that there was no mechanism set out under the Act or in the portal to enable the same.

5. To be noted, that the petitioner has averred that the tax liability has been met in full based on the turnover reported and it is only the correction of the errors that is sought, to enable proper reconciliation of the petitioner-s returns and annexures with those of the third parties.

6. Though a counter has been filed, the above contentions reproduced as per paragraphs 5 to 8 of the affidavit filed in support of the Writ

Petition, have not really been disputed.

3. In paragraph 7, it is noted that learned Senior Standing Counsel did not raise any dispute on the sequence of events as narrated above, but submitted that there was no mechanism available as on that date to issue mandamus as sought, i.e., to direct respondents (appellants herein) to enable petitioner (respondent herein) to rectify the clerical errors in the details uploaded by petitioner (respondent herein) in its GSTR 1 forms for the year 2017-18 by amending the Forms.

4. Learned Single Judge relying on judgment of ***Sun Dye Chem V. Assistant Commissioner***[1] and ***Pentacle Plant Machineries Pvt. Ltd. V. Office of the GST Council, New Delhi***[2], permitted the benefit of rectification of errors as there was no mala fides attributed to the assessee. The Court found that the errors are clearly inadvertent and that the rectification would, in fact, enable proper reporting of the turnover and input tax credit to enable claims to be made in an appropriate fashion by

1 **2021 (44) GSTL 358**

2 **2021 (52) GSTL 129**

the petitioner (respondent herein) and connected assessees.

5. In the appeal, the ground taken primarily is that Section 37(3) of the Central Goods and Services Tax Act, 2017, provides for rectification of error or any omission in a return filed under Section 37(1) of the Act and the proviso therein states that no rectification of error or omission shall be allowed after furnishing of the return under Section 39 of the Act in the month of September following the end of the financial year to which such details pertain, or the filing of the annual return, whichever is earlier.

6. Shri Srinivas submitted that for assessment year 2017-18, the Central Goods and Services Tax (Second Removal of Difficulties) Order, 2018 dated 31.12.2018 extended the last date for amendment to the date on which return for March 2019 falls due. He submitted that the last date for filing returns for March 2019 was extended to 23.04.2019 as per notification dated 22.04.2019 and, therefore, beyond that date, tax payer cannot amend the returns pertaining to the period 2017-18.

7. The Bombay High Court in the case of ***Aberdare Technologies***

Pvt. Ltd. and ors. vs. Central Board of Indirect Taxes & Cusoms and Ors.[3], had allowed the assessee to amend/rectify the form GSTR 1. Against that order, a special leave petition was referred by the Revenue, which came to be dismissed vide order dated 21 March 2025. While dismissing the SLP, the Apex Court was pleased to observe as under:

> *"The petitioner, Central Board of Indirect Taxes and Customs, must re-examine the provisions /time lines fixed for correcting the bonafide errors. Time lines should be realist as lapse/defect invariably is realized when input tax credit is denied to the purchaser when benefit of tax paid is denied. Purchaser is not at fault, having paid the tax amount. He suffers because he is denied benefit of tax paid by him. Consequently, he has to make double payment. Human errors and mistakes are normal, and errors are also made by the Revenue. Right to correct mistakes in the nature of clerical or arithmetical error is a right that flows from right to do business and should not be denied unless there is a good justification and reason to deny benefit of correction. Software limitation itself cannot be a good justification, as software are meant to ease compliance and can be configured. Therefore, we exercise our discretion and dismiss the special leave petition.*
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> *Decisions of the High Courts in Bar Code India Limited v. Union of India and others (2024) SCC Online P&H 13853 and Yokohama India Private Ltd vs. State of Telengana (2023 108 GSTR 115, prima facie, do not lay down good law in this regard. Ratio therein may be examined in another case."*

3 **(2024) 105 GST 585 (Bombay)**

8. As held by the Apex Court, human errors and mistakes are normal, and errors are also made by the Revenue. The right to correct mistakes in the nature of clerical or arithmetical error is a right that flows from the right to do business and should not be denied unless there is a good justification and reason to deny benefit of correction. Software limitation itself cannot be a good justification, as software is meant to ease compliance and can be configured.

9. Therefore, appeal stands dismissed. There will be no order as to costs. Consequently, CMP No.8685 of 2025 stands disposed of.

(K.R.SHRIRAM, CJ.) **(MOHAMMED SHAFFIQ, J.)**

01.04.2025

Index : Yes/No
Neutral Citation : Yes/No
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