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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 6583/2025**

TRANSZONE LOGISTICS INDIA PVT LTD .....Petitioner

Through: Mr. Sandeep Gupta, Mr. Manish Pushkarna and Mrs. Harneet Pushkarna, Advocates.

versus

SALES TAX OFFICER AVATO & ORS. .....Respondents

Through: Mr. Sumit K. Batra, Advocate for R-1 and R-2/ GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

O R D E R

% 16.05.2025

1. This hearing has been done through hybrid mode.

CM APPL. 29803/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

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3. The present writ petition has been filed by the Petitioner – Transzone Logistics India Private Limited under Article 226 and 227 of the Constitution of India seeking quashing of the rectification order dated 1st May, 2025 bearing reference no. ZD0705250004300 (hereinafter '*impugned order*'). According to the Petitioner, Respondent No.1, *vide* the impugned order has rejected the rectification application in gross violation of Proviso 3 to Section 161 of the DGST Act.

4. The challenge in this case is to the effect that in the rectification application filed by the Petitioner, no hearing was given to the Petitioner. This issue has been considered and decided by this Court *vide* judgment dated 08th

April, 2025 in ***W.P.(C) 4506/2025*** titled as ***"HVR Solar Private Limited vs. Sales Tax Officer Class II AVATO WARD 67 & Anr."***, where the Court has held as under :

> *" The said rectification has been rejected vide impugned order dated 28th February, 2025 in the following terms.*
>
> > *"Order of rejection of application for rectification*
> > *With reference to the application referred to above regarding rectification of order (details of which is mentioned in table below), the said application has not been found satisfactory for the reasons attached in annexure.*
> > *Accordingly, the application is rejected."*
>
> *7. The grievance of the Petitioner is that while deciding the rectification application, the Petitioner ought to have been afforded a hearing in terms of the proviso 3 to Section 161 of the DGST Act. The relevant portion of the said provision reads as under:*
>
> > *"Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification."*
>
> *8. It is submitted by the ld. Counsel for the Petitioner that no hearing was given in the rectification application and the same has been rejected. This, according to the Petitioner, is contrary to the provision. Reliance is also placed upon the decision of Madras High Court in* ***W.P. (MD) No. 7338 of 2024 titled 'Suriya Cement Agency v. State Tax Officer'*** *decided on 21st November 2024.*
>
> *9. On behalf of the Respondent, ld. Counsel submits that the Petitioner was awarded full opportunity in the main proceedings and the rectification has been dismissed as the GST Department has not found error apparent on the face of the record.*
>
> *10. Heard. Section 161 of the DGST Act, 2017 reads as under:*
>
> > ***"Section 161. Rectification of errors apparent on the face***

of record.
Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification."

11. As per proviso 3 to Section 161, the rectification order, if allowed in favour of the Petitioner seeking rectification, hearing can be dispensed with. However, if the rectification is to be decided adversely affecting the right of the applicant, the principles of natural justice have to be followed and a hearing ought to be given, if sought.

12. The Madras High Court has in its decision in Suriya Cement Agency (supra) also observed as under:

"8. A perusal of the order does not also indicate that there had been no error apparent on the record to reject the rectification. He had only extracted the tables indicating the figures which the petitioner is liable to pay. There is also no reasonings as to why there is no error apparent on the face of the record. For this reason, the impugned order dated 02.02.2024 is liable to be set aside. Even though, strenuous efforts had been made by the learned Additional Government Pleader that no personal hearing need to be given when an application had been made at the instance of the assessee, I am not in agreement with the learned Additional Government Pleader. The Proviso indicates that when an order is being made adverse to the assessee, then he should be given an opportunity of being heard when the rectification adversely affects any person. <u>The principles of natural justice had been inbuilt by way of the 3rd Proviso to Section 161. If pursuant to a Rectification Application, if a rectification is made and if it adversely affects the assesse, Proviso 3 contemplates an opportunity of hearing to be given.</u> However, when an Rectification Application is made at the instance of assessee and the rectification is being sought to be rejected without considering the reasons for rectification or by giving reasons as to why such rectification could not be entertained. It is also imperative that the assessee to be put on notice.

9. For the aforesaid reasons, I am inclined to hold that the order of rectification passed by the first respondent dated 02.02.2024 is contrary to the provisions of Section 161 and in that aspect, the same alone is set aside and the Rectification Application filed by the petitioner shall be taken afresh by the first respondent and after giving an opportunity to the petitioner, the first respondent shall pass appropriate orders and in accordance with law. If any such order is made in the Rectification Application, it is for the petitioner to work out his remedy in the manner known to law."

13. In view of the above legal position, the personal hearing ought to have been afforded to the Petitioner, which has not been done. Accordingly, the order in rectification application dated 28th

February, 2025 is set aside.

14. Let the Petitioner be afforded a hearing in the rectification application and the order be passed in accordance with law. ”

5. As per the above decision, whenever an adverse opinion is to be rendered against the party concerned, it is mandatory to afford a hearing, under 3rd Proviso to Section 161. This above view has also been reiterated on 13th May, 2025 in ***W.P.(C) 6302/2025*** titled as ***“Sri Ganpati Enterprises vs. Sales Tax Officer Class II/AVATO, Ward 82 & Ors.”***

6. In view thereof, the rectification order is set aside. Let the Petitioner be given a hearing in the rectification application. The personal hearing notice shall be given on the following email address and phone number:

e-mail: sandeep_1507@rediffmaiI.com

Phone Number: 9810668385

7. After hearing the Petitioner, the rectification application shall be decided in accordance with law. All rights and remedies are left open.

8. The petition is disposed of in these terms. Pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 16, 2025/*nd/Ar.*