

IN THE HIGH COURT OF DELHI

WP(C) No. 9963/2019

VADEHRA BUILDERS PVT LTD

Vs

UNION OF INDIA AND ANOTHER

Vipin Sanghi & Sanjeev Narula, JJ

Dated: November 14, 2019

**Appellant Rep by:** Mr Rajesh Jain with Mr Virag Tiwari, Advs.

**Respondent Rep by:** Mr Jasmeet Singh, CGSC with Mr Srivats Kaushal, Advs.

**GST** - The petitioner claimed that the time limitation for filing the annual return would expire on Nov 30, 2019 and that the petitioner be permitted to file a manually amended return in Form GSTR-1 for the month of November 2017 - The petitioner claimed to have some amount of ITC against supplies made, but the particulars of GSTIN were incorrectly filled up inadvertently - On account of such mistake, which could not be discovered due to the omission of the respondents in activating Form GSTR-2, the genuine recipients who actually paid the tax had been deprived of credit for the same.

**Held** - The High Court of Andhra Pradesh in *M/s Panduranga Stone Crushers v. Union of India and Others.*, permitted the petitioner therein to rectify GSTR-3B statements for the relevant months subject to the outcome of the writ petition - It was also clarified that if the petitioner therein submitted a rectified statement for such purpose, the same would be processed as per law - In the present case, as the respondent-Union filed no reply despite granting opportunities and also considering that the time period for filing the return would expire on 30.11.2019, the petitioner deserves interim relief - Hence pending the final outcome of this petition, the petitioner is directed to rectify the return in Form GSTR-1 for the relevant period in respect of the service recipients, by correcting their GSTIN numbers - The rectified Form be submitted by the petitioner within a week's time - Matter be listed on 08.05.2020: HC

**Matter listed**

**Case law cited:**

***M/s Panduranga Stone Crushers v. Union of India and Others - 2019-TIOL-1975-HC-AP-GST... Para 5***

### JUDGEMENT

No reply has been filed by the respondents till date. Further time is sought by learned counsel for the respondents.

The submission of learned counsel for the petitioner is that the time limitation for filing the annual return is expiring on 30.11.2019 as per the date extended by the respondents themselves. He submits that the petitioner should, at least, be permitted to file a manually amended return in GSTR – 1 Form for the month of November, 2017.

The submission is that the petitioner had sold paintings to the recipients whose particulars are enumerated in the table below :

S. No.	Recipient	GSTIN	Invoice no./ date	Place of supply	Amount including tax@ 12%
1.	Prime Interglobe Pvt. Ltd.	07AAHCP5013AIZZ	45/7.11.2017	Delhi	201600/-
2.	Container Movement (Bombay) Transport Pvt. Ltd.	27AAACC2891C2ZW	46/7.11.2017	Maharashtra	3617600/-
3.	Secure Giving-Mumbai	27ABDFS9242A1ZB	53/28.11.2017	Maharashtra	11200/-
4.	Shrine Empire Gallery Pvt. Ltd.	07AAMCS9497A1ZV	54/28.11.2017	Delhi	13440000/-
5.	Secure Giving-Delhi	07ABDFS9242A1ZD	57/30.11.2017	Delhi	358400/-
6.	Vadehra Builders Pvt. Ltd. Dehradun	07AAACV0694C1ZJ	2/22.11.2017	Dehradun	122178/-

The total input tax credit against the above supplies worked out to Rs.19,07,437/-. However, on account of an inadvertent mistake, the particulars of the GSTIN were wrongly filled up, which are as follows:

S.No	Receiver's Name	GSTIN	Invoice no./ date	Place of supply	Amount including tax @ 12%
1.	Mohan Exports (India) Pvt. Ltd.	07AAACM4168J1Z C	45/7.11.2017	Delhi	201600/-
2.	Mohan Exports (India) Pvt. Ltd	07AAACM4168J1Z C	46/7.11.2017	Maharashtra	3617600/-
3.	SSN Investment (Delhi) Pvt. Ltd.	07AAMCS6197D1Z Y	53/28.11.2017	Maharashtra	11200/-
4.	Rockman Industries Ltd.	07AAACR7866E2Z 6	54/28.11.2017	Delhi	13440000/-
5.	K.H. Securities Pvt. Ltd.	27AACCK2327B1Z 2	57/30.11.2017	Delhi	358400/-
6.	Jetair Pvt. Ltd.	07AAACJO121C2Z	2/22.11.2017	Dehradun	122178/-

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On account of the aforesaid mistake, which could not be discovered due to the omission of the respondent in activating the GSTR 2 Form, the genuine recipients who have actually paid the tax could be deprived of the tax credit for the same.

Our attention has been drawn to the order passed by the High Court of Andhra Pradesh at Amaravati in *M/s Panduranga Stone Crushers v. Union of India and Others.*, I.A. No. 01/2019 in W.P. 8662/2019 = **2019-TIOL-1975-HC-AP-GST**, wherein in similar circumstances, the Court permitted the petitioner to rectify the GSTR-3B statements for the months of August and December, 2017 and January and February, 2018 subject to the outcome of the writ petition. It was made clear that if the petitioner submits a rectified statement for the said purpose, the respondents shall process the same in accordance with the procedure established by law.

Considering the fact that the respondents have not filed a reply despite grant of opportunity as early as on 16.09.2019, and the period for filing the annual return for the period in question would expire on 30.11.2019, we are inclined to grant interim relief as sought by the petitioner verbally.

Therefore, subject to final outcome of the writ petition, we permit the petitioner to rectify the return in GSTR 1 Form for the period November, 2017 in respect of the six recipients noted in the tabulation hereinabove, by correcting their GSTIN Nos. The rectified Form shall be submitted by the petitioner within a week manually. The respondents shall verify the status before proceeding further in the matter in accordance with law.

The respondents may file their counter-affidavit within 8 weeks.

Rejoinder be filed before the next date of hearing.

List on 08.05.2020.

Dasti.