

(2020) 09 DEL CK 0161

In the Delhi High Court

Case No : Civil Writ Petition No. 6799 Of 2020

Goyal Iron And Steel Traders

APPELLANT

Vs

Assistant Commissioner Palam Division CGST Delhi South &
Ors

RESPONDENT

Date of Decision : 23-09-2020

Acts Referred:

Central Goods And Services Tax (CGST) Rules, 2017 — Rule 71, 86A

Citation : (2020) 09 DEL CK 0161

Hon'ble Judges : Manmohan, J;Sanjeev Narula, J

Bench : Division Bench

Advocate : Vibhooti Malhotra, Harpreet Singh

Final Decision : Disposed Of

Judgement

Manmohan, J

C.M.No.23547/2020

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.6799/2020 & C.M.No.23548/2020

1. The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

2. Present writ petition has been filed challenging the impugned Input Tax Credit block dated 25th January, 2020 in the petitioner's electronic credit ledger and impugned notice dated 28th January, 2020 issued by respondents nos.1 and 2 citing a mismatch in the Input Tax Credit claimed in GSTR-3B and that appearing in GSTR-2A during the period April, 2018 - March, 2019 as well as a direction to respondents nos.1, 2 & 3 to open the GST portal so that respondent no.4 and

petitioner can make necessary modifications and remove the mismatch on account of respondent no.4's failure to mention petitioner's GST registration number. In the alternative, petitioner seeks directions to respondents nos.1 and 2 to pass a speaking order on its representation dated 20th August, 2020 or direction to respondents nos.1 and 2 to provide "reasons to believe" recorded in the petitioner's case prior to the credit block and to provide an opportunity to the petitioner to file objections thereon and seek their disposal by way of a speaking order.

3. Learned counsel for petitioner states that the said Input Tax Credit was claimed on account of purchases made from Indian Oil Corporation-respondent no.4 against duly issued tax invoices and the tax levied on the sale had been duly deposited with the Government treasury.

4. She submits that the impugned Input Tax Credit block dated 25th January, 2020 had been undertaken without issuance of any prior notice or reasoned order. It is the petitioner's case that the conditions mentioned in Rule 86A of the CGST Rules, 2017 are not satisfied in the present case.

5. She contends that from the impugned notice dated 28th January, 2020 issued by respondents nos.1 and 2, it is apparent that the alleged mismatch of input tax credit arises on the account of respondent no.4's wrongful classification of sale to petitioner as a sale to an ?unregistered entity. She points out that the invoices issued by respondent no.4 contain the petitioner's GST registration number. She states that, in fact, respondent no.4 has admitted its mistake to the respondents.

6. She further states that the approach of respondents nos.1 and 2 in issuing the impugned credit block and impugned notice is contrary to the scheme laid down in Rule 71 of the CGST Rules, 2017 inasmuch as there is no window/time left for respondent no.4 to rectify the mistake.

7. Issue notice.

8. Mr.Harpreet Singh, learned senior standing counsel accepts notice on behalf of the respondents. He states that he has no objection if the present writ petition is directed to be treated as a representation to respondent no.1 and the same is directed to be disposed of by way of a reasoned order.

9. In view of the aforesaid, the present writ petition is directed to be treated as a representation to respondent no.1, who is directed to decide the same by way of a reasoned order within four weeks, in accordance with law, after giving an opportunity of hearing to the petitioner and/or its authorized representative.

10. Till the said representation is decided by respondent no.1, the parties are directed to maintain status quo with regard to the impugned notice dated 28th January, 2020.

11. Accordingly, the present writ petition and application stand disposed of.

12. The order be uploaded on the website forthwith. Copy of the order be also

forwarded to the learned counsel through e-mail.