# HIGH COURT OF TRIPURA
# AGARTALA

## W.P.(C) No.379 of 2023

M/S Ashutosh Bandyopadhay, a registered Partnership Firm, having its registered office at Joynagar, Hariganga Basak Road, Agartala, Tripura-799 001, constituted by its partners, namely,

1. Sri Ashutosh Bandhyopadhay, son of Late Rajendra Bandyopadhyay,
2. Sri Saikat Bandyopadhay, son of Sri Ashutosh Bandyopadhay,
3. Smt. Rita Banerjee, wife of Sri Ashutosh Bandyopadhay,
4. Smt. Tulika Banerjee (Gupta), wife of Sri Saikat Banerjee,

All of them are having their registered offices at Joynagar, Hariganga Basak Road, Agartala, Tripura-799 001;
Represented by their constituted Attorney, Sri Saikat Bandyopadhaya, son of Sri Ashutosh Bandyopadhay, having his registered office at Joynagar, Hariganga Basak Road, Agartala, Tripura-799 001

……… Petitioner(s).

V E R S U S

1. The Union of India, represented by its Secretary, Department of Finance, Government of India, having his office at South Block, New Delhi, PIN-1100001

2. The Secretary, Department of Finance, Government of India, having his office at South Block, New Delhi, PIN:1100001

3. The State of Tripura, represented by the Commissioner & Secretary, Revenue Department, Government of Tripura, having his office at Secretariat Building, Pandit Nehru Complex, P.O. Kunjaban, P.S. New Capital Complex, Sub-Division- Agartala, District: West Tripura, PIN-799 006

4. The Commissioner & Secretary, Revenue Department, Government of Tripura, having his office at Secretariat Building, Pandit Nehru Complex, P.O-Kunjaban, PS- New Capital Complex, Sub-Division-Agartala, District-West Tripura, PIN-799 006

5. The Commissioner of Goods & Service Tax, Government of Tripura, having his office at Secretariat Building, P.O- Kunjaban, PS-New Capital Complex, Sub-Division-Agartala, District- West Tripura, PIN-799006

6. The Assistant Commissioner, Department of Revenue, CGST Tripura Division 1, Agartala, having his office at Jackson Gate Building 3rd Floor, Lenin Sarani, Sub-Division-Sadar, District- West Tripura, PIN-799 001

7. The Superintendent, Central Goods & Services Tax Range, Agartala-II, having his office at Jackson Gate Building 3rd Floor, Lenin Sarani, Sub-Division-Sadar, District-West Tripura, PIN-799 001

8. Engineering Projects (India) Limited, represented by its Deputy General Manager, having his office at Bijoy Kumar Chowmuhani, P.O.- Agartala, P.S.-West Agartala, Sub-Division-Sadar, District- West Tripura, PIN-799 001

9. Goods and Service Tax Network, represented by its Chairman, having his Office at Worldmark-1, Aerocity, Indira Gandhi International Airport, New Delhi, PIN-110037

……… Respondent(s).

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| For Petitioner(s) | : | Mr. Somik Deb, Sr. Advocate,<br>Ms. Rinku Roy Barman, Advocate,<br>Ms. Sara Tripura, Advocate,<br>Ms. Dolly Rupini, Advocate |
| For Respondent(s) | : | Mr. Bidyut Majumder, D.S.G.I.<br>Mr. Biplabendu Roy, Advocate |

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO**
**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Order**

**27/07/2026**

1) In this writ petition, the petitioner contends that it got itself registered under the CGST Act, 2017 and for the period 01.05.2019 to 05.02.2020, the petitioner had shown certain invoices in the GST TDS GSTIN instead of the regular GSTIN.

2) The petitioner contends that when it approached the 7$^{th}$ respondent, he issued a letter on 29.11.2022 certifying that invoices mentioned by the petitioner were verified with the returns in the GST portal and it was found that the invoices were filed against GSTIN which was the GST TDS GSTIN but not against the regular GSTIN in the petitioner's GSTR-1 returns.

3) The petitioner contends that he sought rectification of the said inadvertent mistake committed in filing of the returns in the wrong GST portal by approaching the respondents, but they denied to do so, wrongly presuming that once an entry is made in the GSTIN portal, the same cannot be altered.

4) The petitioner contends that unless the rectification is made, he would not be able to avail of the benefit of Input Tax Credit despite the fact that it had paid off the due taxes leviable on it.

5) The petitioner therefore filed this Writ petition for issuance of a direction to the respondents to correct the inputs of tax paid by the petitioner in the regular GSTIN of the petitioner and thereby enabling the petitioner to have the benefit of Input Tax Credit by way of adjustment of the returns in that return by opening the portal for a limited period, upon due communication to the petitioner and to the respondents as it would reflect corresponding correction in the GSTR-1 Form for the relevant period.

6) A counter-affidavit has been filed by respondents No.6 and 7 on 11.08.2023 contending that the Jurisdictional Tax Authorities do not possess any power/access/authority to rectify the mistakes made by the taxpayer by filing GST returns, and entries once entered and submitted in the GST portal cannot be changed/altered/rectified by the Jurisdictional Tax Officer. It is further contended that the Input Tax Credit can be availed by the service recipient only when the supplier does mention the invoices against the GSTIN of the recipient of the service while filing GSTR-1 return for the respective period. But, the petitioner did not upload the invoices in their GSTR-1 return against the service recipient Engineering Projects (India) Limited.

7) We have noted the contentions of the parties.

8) Similar issue had arisen before the Bombay High Court in the case of **Aberdare Technologies Pvt. Ltd. and Another vs. Central Board of Indirect Taxes & Customs and Others**[1].

In that case also there was a request for correction of the Form GSTR-1 filed by the petitioner for the period July 2021, November 2021 and January 2022, either through online or manual means. The same had been rejected by the GST Authorities and the petitioner had approached the Bombay High Court. The respondents therein also took the plea that the same cannot be corrected.

The Division Bench of the Bombay High Court on 29.07.2024 rejected the plea of the respondents and held as under:

> *"12. Having considered the statutory ambit of sections 37, 38 and 39, we are of the clear opinion that the provisions of sub-section (3) of section 37 read with section 38 and sub-sections (9) and (10) of section 39 need to be purposively interpreted. We cannot read sub-section (3) of section 37 to mean that the assessee would be prevented from placing the correct position and having accurate particulars in regard to all the details in the GST returns being filed by the assessee and that there would not be any scope for any bona fide, and inadvertent rectification/correction. This would pre-supposes that any inadvertent error which had occurred in filing of the returns, once is permitted to be rectified, any technicality not making a window for such rectification, ought not to defeat the provisions of sub-section (3) of section 37 read with the provisions of sub-section (9) of section 39 read de hors the provisos"*

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1 **2024 SCC OnLine Bom 4122: (2024) 89 GSTL 6**

9) The Bombay High Court referred to it's judgment in **Star Engineers (I) Pvt. Ltd. vs. Union of India**[2] where the same Court was considering the issue of refusal of the respondents-GST Authorities to rectify/amend the Form GSTR-1 for the period July 2021, November 2021 and January 2022 either through online or manual means. It noted that in the case of ***Star Engineers (I) Pvt. Ltd***. (2 supra), it had been held that the GST regime as contemplated under the GST Law, unlike the prior regime, has evolved a scheme which is largely based on the electronic domain. The diversity in which the traders and the assessees in our country function, with the limited expertise and resources they would have, cannot be overlooked, in the expectation the present regime would have in the traders/assessees complying with the provisions of the GST Laws. There are likely to be inadvertent and bonafide human errors in the assessees adopting themselves to the new regime. For a system to be understood and to operate perfectly, it certainly takes some time. The provisions of law are required to be alive to such considerations and it is for such purposes the substantive provisions of sub-section (3) of Section 37 and sub-section (9) of Section 39 minus the proviso, have permitted rectification of inadvertent errors.

10) It held that there was not an iota of an illegal gain being derived by the assessees and in fact the scheme of the GST Laws itself would contemplate correct data to be available in each and every return of tax being filed by the assessees, and any incorrect particulars on the varied aspects touching the GST returns would have serious cascading effect,

[2] **(2023) 2 HCC (Bom)793**

prejudicial not only to the assessee, but also to the third parties. It therefore held that considering such object and the ground realities, the law would be required to be interpreted and applied by the Department and that would necessarily mean that a bonafide, inadvertent error in furnishing details in a GST return needs to be recognized and permitted to be corrected by the department, when in such cases the department is aware that there is no loss of revenue to the Government. Such freeplay in the joint requires an eminent recognition. The department needs to avoid unwarranted litigation on such issues, and make the system more assessee friendly. Such approach would also foster the interest of revenue in the collection of taxes.

11) In the judgment in **Star Engineers (I) Pvt. Ltd. ( 2 supra),** the Bombay High Court allowed the writ petition and directed the respondents to permit the petitioner to amend/rectify the Form GSTR-1 for the above period either through online or manual means within four weeks from that day.

12) In the judgment in **Aberdare Technologies Pvt. Ltd.** (1 supra) this judgment was followed because the facts were identical and it was also noted that there was no loss of revenue to the respondents if the petitioner was permitted to amend the GST returns filed. Therefore, a direction was given to the respondents to open the portal within one week from the date of the said order being uploaded and inform the petitioner to enable them to amend/rectify Form GSTR-1 and GSTR-3B within one week.

13) This judgment was challenged in the Supreme Court of India by the Central Board of Indirect Taxes and Customs.

14) The Supreme Court in it's judgment in **Central Board of Indirect Taxes and Customs vs. Aberdare Technologies Private Limited and Others**[3] dismissed the said SLP on 21.03.2025 and observed the following:

> *"2. We are not inclined to interfere with the impugned judgment which is, in fact, just and fair, as there is no loss of revenue. Hence, the present special leave petition is dismissed.*
>
> *3. The petitioner, Central Board of Indirect Taxes and Customs, must re-examine the provisions/time-lines fixed for correcting the bona fide 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 ease compliance and can be configured. Therefore, we exercise our discretion and dismiss the special leave petition."*

15) In the instant case also, there is only the issue of filing of the invoices in the correct GSTIN. Instead of filing it in the regular GSTIN,

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[3] **2025 SCC OnLine SC 1323**

the petitioner had filed it in the wrong GSTIN i.e. GST TDS GSTIN. There is no loss of revenue to the respondents at all. Though the respondents had taken the plea that entries once made in the GSTIN Portal cannot be altered that stand is no longer correct in view of the judgments of the Bombay High Court in ***Star Engineers (I) Pvt. Ltd.*** (2 supra) as followed in ***Aberdare Technologies Pvt. Ltd. and Another*** (1 supra) which has been affirmed by the Supreme Court in the case of ***Central Board of Indirect Taxes and Customs*** (3 supra).

16) We may also take note of the amendments brought to Section 16 of the Act by introducing sub-Section (5) vide Finance Act No.2 of 2024 dt. 16.08.2024, with retrospective effect from 01.07.2017. The said Sub-Section 5 of Section 16 states as under:

> *"(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021."*

17) This also indicates that the timelines described in Sub-Section (4) of Section 16 for availing input tax credit have been relaxed by the Parliament itself by introducing sub-Section (5) in Section 16.

18) In the instant case, the GSTR returns in question pertain to the period 2019-20, which is also covered in the said sub-Section.

19) Therefore, for the aforesaid reasons, we allow the Writ Petition and direct the respondents to permit the petitioner to amend/rectify the Form

GSTR-1 and GSTR-3B for the period 01.05.2019 to 05.02.2020 either through online or manual means within four weeks from today.

20) Pending application(s) if any, shall also stand disposed of.

**(BISWAJIT PALIT, J)** **(M.S. RAMACHANDRA RAO, CJ)**



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