IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 9857 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE BHARGAV D. KARIA

and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

==========

Approved for Reporting	Yes	No
		✔

==========

M/S SANGHVI METAL CORPORATION
Versus
UNION OF INDIA & ORS.

==========

Appearance:
MR. HARDIK V VORA(7123) for the Petitioner(s) No. 1
MS. SHRUNJAL SHAH, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 4,5
MR PRADIP D BHATE(1523) for the Respondent(s) No. 1,2,3
NOTICE SERVED for the Respondent(s) No. 1,2,3,4,5

==========

CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 07/08/2025

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1. Learned advocate Mr. Hardik Vora for the petitioner seeks permission to delete respondent Nos. 1, 2 and 3 from the cause title. Permission is granted.

2. Heard learned advocate Mr. Hardik Vora for the petitioner and learned Assistant Government Pleader Ms. Shrunjal Shah for the respondent Nos. 4 and 5.

3. ***Rule*** returnable forthwith. Learned Assistant Government Pleader Ms. Shrunjal Shah for the respondents waives service of notice of Rule.

4. Having regard to the controversy involved which is in narrow compass, with the consent of the learned advocates for the parties, the matter is taken up for hearing.

5. By this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

> *"a. A writ of mandamus, or any other appropriate writ, order and/or directions in the nature of mandamus declaring the notification no. 09/2023*

dated 31.03.2023 (Annexure A) as dehors, arbitrary, ex-facie illegal, without jurisdiction and violative of provisions of section 168A of the CGST Act;

b. A writ of certiorari, or any other appropriate writ, order and/or directions in the nature of certiorari to quash the order in DRC-07 dated 20.12.2023 (Annexure B) issued by the respondent no. 4 being time-barred and even otherwise illegal;

c. A writ of certiorari, or any other appropriate writ, order and/or directions in the nature of certiorari to quash the appeal order dated 12.02.2025 in GST APL-04 (Annexure C) issued by the respondent no. 5;

d. A writ of mandamus, or any other appropriate writ, order and/or directions in the nature of mandamus allowing the Petitioner to rectify the GSTR-1 for the quarter 3 of F.Y. 2017-18 (October to December 2017)"

6. Brief facts of the case are as under:

6.1 The petitioner is a sole proprietorship concern engaged in the business of trading of iron and steel related goods and duly registered under the provisions of Central/ State Goods and Service Tax Act, 2017 (for

short 'the GST Act') with effect from 1.7.2017.

6.2 The respondent No.4 -State Tax Officer, Ghatak 19, Range 5 Division II, Ahmedabad issued a show-cause notice dated 29.9.2023 in Form GST DRC-01 calling upon the petitioner to show cause as to why tax amounting to Rs.40,32,390/- should not be demanded and recovered along with interest and penalty on the ground that there is a difference in the outward supplies declared in Form GSTR-01 and outward supplies as per Form GSTR-3B. It was pointed out that the outward supplies as per GSTR-01 is Rs.45,80,158/- and outward supplies as per GSTR-3B is Rs.5,74,022/-. It was also alleged that ITC claimed in GSTR-3B is 3,66,300/- but ITC as per GSTR-1 filed by the suppliers is Rs.3,45,164/-. Therefore, there

was excess claim of ITC amounting to Rs.21,136/- and the petitioner has put forth further claim of Rs.5118/- which was ineligible under Section 17(5) of the GST Act.

6.3 The petitioner filed detailed reply on 28.10.2023 contending that discrepancy in outward supplies in GSTR-1 and GSTR-3B have arisen due to an inadvertent clerical error during the first year of GST implementation, specifically in the return for the month of December, 2017, whereby the sales data pertaining to the sister concern of the petitioner i.e. Semi Steel India was mistakenly uploaded in the Form GSTR-1 of the petitioner which has resulted in the difference.

6.4 With regard to other two discrepancies, it

was pointed out that during the Financial Year 2017-18, the facility of GSTR-2A was not operational and therefore, the difference should not be added in the hands of the petitioner.

6.5 With regard to disallowance of ITC under the provision of Section 17(5) of the GST Act, it was submitted that during the relevant period pertaining to inputs and input services used in the course or furtherance of business does not fall under any of the blocked credit categories specified under provisions of Section 17(5).

6.6 The respondent No.5, however, passed an order-in-original dated 20.12.2023 in Form GST DRC-07 determining tax demand of Rs.40,27,272/- along with interest of

Rs.44,70,272/- and interest on penalty.

7. Being aggrieved, the petitioner preferred an appeal before the appellate authority under Section 107 of the GST Act, on 3.9.2024. It was contended before the appellate authority that the petitioner is a Senior Citizen aged about 70 years and not a techno-savvy individual and, therefore, he does not operate or regularly access email communications and, therefore, the petitioner filed the appeal belatedly on coming to know when the Bank Accounts of the petitioner were attached for recovery on the basis of the Order-in-Original in the month of August, 2024.

8. The appellate authority, however, dismissed the appeal on the ground of limitation without adjudicating the case on merits.

9. Being aggrieved, the petitioner has preferred this petition on the aforesaid prayers.

10. Learned advocate Mr. Hardik Vora for the petitioner made detailed submissions with regard to inadvertent error in filing Form GSTR-1 by showing the turn-over of the sister concern of the petitioner.

11. It was submitted that the petitioner, therefore, should be permitted to file rectified GSTR-1 with correct turnover so as to match with the Form GSTR-3B filed by the petitioner for the period under consideration.

12. In support of his submissions, reliance was placed on the decision of the Bombay High

Court in case of ***Aberdate Technologies (P.) Ltd. v. Central Board of Indirect Taxes & Customs, reported in [2024] 165 Taxmann.com 325 (Bombay)***, which is upheld by the Hon'ble Supreme Court in the decision in case of ***Central Board of Indirect Taxes and Customs v. Aberdare Technologies (P.) Ltd., reported in [2025] 172 taxmann.com 724 (SC).***

13. On the other hand, learned Assistant Government Pleader Ms. Shrunjal Shah submitted that on perusal of the papers, it appears that there was a mistake committed by the petitioner, by showing the turnover of the sister concern in the GSTR-1 filed by the petitioner for the third quarter of the Financial Year 2017-18. It was submitted that if the petitioner files rectified turnover, as may be directed by this Court, same will be

considered by the authorities, in accordance with law.

14. Having considered the submissions made by learned advocates for the parties, it appears that the petitioner has committed a mistake showing turnover in the return of income for the third quarter of Financial Year 2017-18 by referring to the turnover of the sister concern. This fact is also borne out from the Form GSTR-1 filed by the sister concern of the petitioner placed on record by the petitioner along with reply filed in response to the show-cause notice.

15. In case of *Aberdate Technologies (P.) Ltd. v. Central Board of Indirect Taxes & Customs* (Supra), the Bombay High Court has followed the decision in case of ***Star Engineers (I) P). Ltd. v. Union of India [2023] 157 taxmann.com***

285, wherein the petitioner after filing the return realised that there were certain error and time prescribed under Section 39(9) of the GST Act had expired. In such circumstances, the Bombay High Court in case of Star Engineers (I) P). Ltd. v. Union of India (supra) has held as under:

> *"12. Having considered the statutory ambit of Section 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 bonafide,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.*
>
> *13. In our opinion, the proviso ought not to defeat the intention of the legislature as borne out on a bare reading of sub- section (3) of Section 37 and sub-section (9) of Section 39 in the category of cases when*

there is a bonafide and inadvertent error in furnishing any particulars in filing of returns, accompanied with the fact that there is no loss of revenue whatsoever in permitting the correction of such mistake. Any contrary interpretation of sub-section (3) of Section 37 read with sub-sections (9) and (10) of Section 39 would lead to absurdity and / or bring a regime that GST returns being maintained by the department having incorrect particulars become sacrosanct, which is not what is acceptable to the GST regime, wherein every aspect of the returns has a cascading effect. This is necessarily required to be borne in mind when considering the cases of inadvertent human errors creeping into the filing of GST returns.

14. Applying such principles to the facts of the present case, in our opinion, the State Tax Officer had all materials before it which went to show that there was nothing illegal and / or that what had happened at the end of the petitioner was that the invoices generated by the petitioner under the bill-to-ship-to-model for delivery of goods to third party vendors of BAL of which input tax credit for the invoices in question, were not availed by BAL due to error of credit not being reflected in the GSTR-1, as the petitioner had mentioned GSTIN of third party instead of GSTIN of BAL. This is also accepted by the State Tax Officer in the impugned communication.

15. As a result of the above discussion, in our opinion, the State Tax officer ought to have granted the petitioner's request to rectify/ amend the Form GSTR-1 for the period July 2021, November 2021 and January 2022, either through Online or

manual means.

16. We also find that the petitioner's reliance on the decision as noted by us is quite apposite. In Sun Dye Chem Vs. Assistant Commissioner (supra), learned Single Judge of the Madras High Court considered a similar case wherein an error was committed by the petitioner in filing of details relating to credit. The error was to the effect that what should have figured in the CGST/SGST column was inadvertently reflected in the IGST column. It was not the case of the department that the error was deliberate and was intended to gain any undue benefit by the petitioner and in fact, by reason of the error, the customers of the petitioner were denied credit which they claim to be legitimately entitled to. It was also an error which was not initially noted by the petitioner, and on account of the error, the customers of the petitioner would be denied credit which they claimed to be legitimately entitled to, owing to the fact that the credit stands reflected in the wrong column. It is in these circumstances, after examining the relevant provisions which we have already discussed, the learned Single Judge observed that in the absence of an enabling mechanism, the assessee should not be prejudiced from availing credit which they are otherwise legitimately entitled to. The Court observed that an error committed by the petitioner is an inadvertent human error and the petitioner should not be prevented from rectifying the same and accordingly, allowed the petition.

17. A similar view was taken in the Pentacle Plant Machineries Pvt. Ltd. (supra) which also followed the decision in Sun Dye Chem (supra).

18. We also note that the Division Bench of

the Orissa High Court in Shiva Jyoti Construction (supra) was considering the case wherein the petitioner had prayed for a relief that the petitioner be permitted to rectify the GST returns filed in September 2017 and March 2018 which was filed inadvertently in Form-B2B instead of Form B2C as was wrongly filed under the GSTR-1 in order to get input tax credit benefit by a third party namely M/s. Odisha Construction Corporation Ltd. The last date for filing of return was 31 March 2019 and the rectification should have been carried out by 13 April 2019. The petitioner contended that an error came to be noticed after the said third party held up the running bill amount of the petitioner by informing it of the error on 21 January 2020. The petitioner contended that thereafter it was making a request to the department to correct the GSTR-1 form, but it was not allowed. It is in these circumstances, the Court considering the fact that in permitting the petitioner to rectify such error, there was no loss of revenue whatsoever to the department, that it was only about the ITC benefit which was to be given to the customer of the petitioner, failing which a prejudice would be caused to the petitioner. The Division Bench referring to the decision in Sun Dye Chem (supra) granted the prayer of the petitioner for setting aside the letter of rejection as impugned in the proceedings and permitting the petitioner to resubmit the corrected returns in Form - B2B under GSTR-1 for the period in question.

19. The Division Bench of the Jharkhand High Court in Mahalaxmi Infra Contract Ltd. (supra) has taken a similar view wherein the Division Bench after considering the rival contentions and the scheme of the legislation, allowed the petition considering the fact that there was no loss

of revenue, if such rectification as prayed for by the petitioner was to be granted.

20. On the interpretation of the provisions as made by us and the common thread running through the decisions as noted above, it would lead us to observe 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 operate perfectly, it certainly takes some time. The provisions of law are required to be alive to such considerations and it is for such purpose 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.

21. We may also observe that the situation like in the present case, was also the situation in the proceedings before the different High Courts as noted by us above, wherein the errors of the assessee were inadvertent and bonafide. There was not an iota of an illegal gain being derived by the assessees. 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. Any incorrect particulars on the varied aspects touching the GST returns would have serious cascading effect, prejudicial not only to the

assessee, but also to the third parties.

22. It is considering such object and the ground realities, the law would be required to be interpreted and applied by the Department. This necessarily would 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.

23. In the aforesaid circumstances, we have no manner of doubt that the petition is required to be allowed. It is accordingly allowed by the following order:-

ORDER

(I) The respondents are directed to permit the petitioner to amend / rectify the Form GSTR-1 for the period July 2021, November 2021 and January 2022, either through Online or manual means within a period of four weeks from today.

(II) Petition stands disposed of in the above terms. No costs."

16. The Hon'ble Supreme Court passed the following order by disposing of the SLP filed by the Central Board of Indirect Taxes and

Customs against the order passed by the Bombay High Court in case of ***Aberdate Technologies (P.) Ltd. v. Central Board of Indirect Taxes & Customs*** (Supra)as under:

> *1. Delay condoned.*
>
> *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/timelines 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 ease compliance and can be configured. Therefore, we exercise our discretion and dismiss the special leave petition.*
>
> *4. Decisions of the High Courts in Bar*

> *Code India Limited v. Union of India and others1 and Yokohama India Private Limited v. State of Telangana2", prima facie, do not lay down good law in this regard. Ratio therein may be examined in another case.*
>
> *5. Pending application(s), if any, shall stand disposed of."*

17. Applying the above dictum of law to the facts of the case, it appears that the petitioner has inadvertently shown the turnover of sister concern in the Form GSTR-1 filed for the third quarter of the Financial Year 2017-18 and, therefore, such mistake is required to be rectified.

18. The petition, therefore, succeeds and is accordingly allowed. The impugned order dated 12.02.2025 in GST APL-04 issued by the respondent no. 5 is quashed and set aside. The petitioner is permitted to file rectified Form GSTR-1 within a period of four weeks from today, which shall be accepted by the

respondent manually and processed accordingly, in accordance with law. Such exercise shall be completed within twelve weeks from the date of receipt of the rectified return filed by the petitioner. Rule is made absolute to the aforesaid extent.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI,J)

SAJ GEORGE

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: SAJ PULICKAL GEORGE(HC01069), PRIVATE SECRETARY, at High Court of Gujarat on 14/08/2025 11:36:31