

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 6695 of 2023**

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ANITA GOVINDKUMAR VANJANI

Versus

STATE OF GUJARAT & 1 other(s)

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Appearance:

UCHIT N SHETH(7336) for the Petitioner(s) No. 1

for the Respondent(s) No. 2

MR MANAN MEHTA, AGP for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE N.V.ANJARIA**

and

HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 02/05/2023

ORAL ORDER**(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)**

Heard learned advocate Mr.Uchit Sheth for the petitioner and learned Assistant Government Pleader Mr.Manan Mehta for the respondent.

2. The petitioner has prayed to direct the respondent to rectify the summary order dated 14.8.2019 in terms of the rectification application dated 20.8.2019 filed by the petitioner. It is next prayed to set aside the said order dated 14.8.2019 and remand the case so as to avail the petitioner an opportunity of being heard.

3. The facts in brief are that the petitioner is engaged in business of selling milk and milk products and as registered under the Goods and Services Tax Act issued Notice dated

26.5.2019 in Form GST-10 in which the discrepancy in details of the forms submitted for the month of October, 2018 to the authorities, in relation to furnishing the details of the outward sale.

3.1 It is the case of the petitioner that he informed the authority concerned on 5.7.2019 explaining the discrepancy, however, the office has proceeded to issue show cause notice under Section 73 of the Goods and Services Tax Act. It was stated by the petitioner that the petitioner uploaded the reply to the show cause notice and again explained the differences between the two forms submitted for the month of October. It was submitted that the discrepancy arose because in the first form the details of the sale transaction of the previous month were also mentioned. The explanation did not find favor with the respondents who issued impugned order dated 14.8.2019 confirming the demand raised by the authority in the show cause notice.

3.2 It appears that the petitioner has filed rectification application immediately after the said order on 20.8.2019 invoking the provisions of Section 161 of Goods and Services Tax Act. The said provision permits rectification of errors apparent on the face of the record, according to the petitioner, the discrepancy is only an error apparent which does not amount to illegality. Be as it may.

4. Having considered the totality of facts and upon hearing learned advocates for both the sides, the court finds that the interest of justice would be sub-served if the application for

rectification application filed by the petitioner on 20.8.2019 is directed to be decided by the competent authority within a time frame.

5. The competent authority of the respondent is directed to decide the rectification application after opportunity to be given to both the sides, within a period of eight weeks from the date of receipt of the order. Until the rectification application is decided, the impugned order dated 14.8.2019 shall not be enforced, subject to outcome of the decision of the rectification application.

6. This court has not gone into muchless expressed any opinion on the merits of the case of the petitioner.

7. This petition is disposed of in the aforesaid terms.

Direct service is permitted.

(N.V.ANJARIA, J)

(D. M. DESAI, J)

Manshi