



\$~28

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision: 21st November, 2023

+

W.P.(C) 15065/2023 & CM APPL. 60150/2023**BEDI AND BEDI ASSOCIATES**

..... Petitioner

Through: Mr. Sunil Dalal, Senior
Advocate with Mr. Tarun
Chawla, Mr. Paresh
Bhaguna, Ms. Manisha
Saroja, Mr. Nikhil
Beniwal and Mr. Navish
Bhati, Advs.

versus

COMMISSIONER OF CGST DELHI AUDIT-1**& ANR.**

..... Respondents

Through: Mr. Harpreet Singh,
Senior Standing Counsel
with Ms. Suhani Mathur,
Adv.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE AMIT MAHAJAN****VIBHU BAKHRU, J. (Oral)**

1. The petitioner has filed the present petition, *inter alia*,
praying as under:

“(a) quash and set aside Corrigendum dated 25.08.2023 to ADT-02
dated 07.06.2023 as issued by Respondent No 2;

(b) quash and set aside Corrigendum dated 28.08.2023 TO DRC -
01A dated 04.07.2023 as issued by Respondent No 2;

(c) quash and set aside Show Cause Notice dated 11.09.2023 as
issued by Respondent No 2; and

(d) pass such other order or orders as may be deemed fit and proper
in the interest of justice.”

2. The petitioner had availed of exemption from payment of
Goods and Services Tax (GST) in respect of outward supplies



made to a Polytechnic (Vocational Institution) in terms of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

3. In the aforesaid background, the Superintendent, Group-54, CGST, Audit-1, Commissionerate, New Delhi, had issued a letter dated 07.03.2023 requesting the petitioner to provide the specific notification number, under which the exemption was claimed as well as the details of the outward supplies.

4. The petitioner responded to the said letter on 09.03.2023.

5. Thereafter, on 07.06.2023, Final Audit observations (ADT-02) was issued by the respondents. The gist of the observations indicates that the concerned authority was of the view that the petitioner was not entitled to exemption under the Notification No. 12/2017. According to the concerned authority, supplies made to a Polytechnic could not be considered as supplies to an educational institution.

6. According to the observations, GST of the sum amounting to ₹49,16,111/- alongwith interest and penalty was payable by the petitioner. The said observations were approved by the Monitoring Committee.

7. However, thereafter, two corrigendums were issued – Corrigendum dated 25.08.2023 and Corrigendum dated 28.08.2023 (hereafter '**impugned corrigendums**') and the demand raised was amended. These were followed by a Show Cause Notice dated 11.09.2023 (hereafter '**impugned SCN**'), issued under Section 74 of the Central Goods and Services Tax Act, 2017 (**CGST Act**), alleging that a sum of ₹1,79,56,485/- was recoverable from the petitioner for wrongfully availing the



exemption along with interest and penalty.

8. The petitioner has not responded to the impugned SCN as yet, but has approached this Court impugning the impugned corrigendums dated 25.08.2023 and 28.08.2023 as well as the impugned SCN.

9. The present petition is premised on the basis that the impugned corrigendums were not approved by the Monitoring Committee.

10. A plain reading of the final audit observations, as approved by the Monitoring Committee, indicates that the demand was founded on the basis that the petitioner was not entitled to the benefit of the Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. The impugned corrigendums only purported to correct the quantification of the tax recoverable on the aforesaid basis. Any alteration in the amount of tax on account of a computational error may not require specific approval of the Monitoring Committee.

11. *Prima facie*, the impugned corrigendums or the impugned SCN are not liable to be set aside on the aforesaid ground.

12. Mr. Harpreet Singh, learned counsel who appears for the respondents on advance notice, states on instructions that the present petition is based on a factually incorrect premise that the impugned corrigendums were not approved by the Monitoring Committee. He submits that the impugned corrigendums were placed before the Monitoring Committee at a meeting held on 17.08.2023 and were specifically approved.

13. In view of the above, the premise on which the present



2023:DHC:8379-DB



petition is founded, does not hold good.

14. The petition is, accordingly, dismissed. All pending applications are also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

NOVEMBER 21, 2023

'KDK'