

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE SHEEL NAGU

&

HON'BLE SHRI JUSTICE VIRENDER SINGH

ON THE 2nd OF SEPTEMBER, 2022

WRIT PETITION No. 6110 of 2020

Between:-

**MAHARAJA CABLES (C/O MAXWELL LOGISTIC
PVT LTD) E-93, (A&B) RIICO IND. AREA PHASE-I
BHIWANDI DISTRICT ALWAR RAJASTHAN
THROUGH ITS PARTNER SHRI ANIL AGARWAL
S/O OM PRAKASH AGARWAL, AGED ABOUT 56
YEARS, R/O C-1/1561 VASANT KUNJ, SOUTH
WEST, NEW DELHI - 110070**

.....PETITIONER

(BY SHRI HIMANSHU KHEMUKA - ADVOCATE)

AND

- 1. COMMISSIONER (GST) STATE TAX INODRE
(M.P.)**
- 2. APPELLATE AUTHORITY AND JOINT
COMMISSIONER STATE TAX BHOPAL
DIVISION**
- 3. STATE TAX OFFICER ANTI EVASION BUREAU
BHOPAL STATE TAX OFFICE BHOPAL (M.P.)**
- 4. THE GOODS AND SERVICE TAX COUNCIL, 5TH
FLOOR, TOWER-II, JEEVAN BHARTI BUILDING,
JANPATH ROAD, CONNAUGHT PLACE, NEW
DELHI - 110001**

.....RESPONDENTS

**(RESPONDENTS NO.1 TO 3 BY SHRI NAVEEN DUBEY -
GOVERNMENT ADVOCATE AND RESPONDENT NO.4 BY SHRI
GAJENDRA SINGH - ADVOCATE)**

.....
*This petition coming on for admission this day, JUSTICE SHEEL
NAGU passed the following:*

ORDER

The challenge in this petition is made to the orders dated 05.09.2019 (Annexure P/6) and 27.05.2019 (Annexure P/4) passed by respondent Nos. 2, Joint Commissioner State Tax, (Appellate Authority) Bhopal Division, Bhopal and 3, State Tax Officer, Anti Evasion Bureau, Bhopal respectively.

2. The facts reveal that petitioner, a private company engaged in the business of copper cables, entered into an agreement with one M/s Bajaj Electricals Ltd. for supply of certain goods. As per the agreement, the goods had to be delivered at the factory at Bhopal. The said agreement ultimately ensued in transportation of a consignment through M/s Maxwell Logistic Pvt Ltd. by vehicle bearing registration No.DL-01-GC 3550.

3. A tax invoice was generated which reflected the destination as well as the registration number of the vehicle which has been brought on record as Annexure P/1. Thereafter, the petitioner generated E-way bill which is required to be carried along with the consignment. However, the address on the E-way bill was mentioned at registered office of the consignee at Indore, instead of Bhopal and thus, the Revenue Authorities initiated proceedings under Section 129 of Central Goods and Service Tax Act, 2017 which ultimately resulted in passing of the order by which the liability of additional tax as well as penalty was imposed against the petitioner and the appeal against the said order was also dismissed. The petitioner has challenged the order passed by the original as well as appellate Authority.

4. Learned counsel for petitioner submits that the mistake while generating E-way bill was an inadvertent human error and there was no intention to evade the tax liability particularly, when the vehicle number which was transporting the goods was same and hence, prays for quashment of the

orders.

5. We have heard learned counsels for the parties.

6. The issue in question which is being sought to be raised in the present petition, has already been decided vide order dated 04.02.2021 in W.P.No.12913/2020 (Robbins Tunnelling and Trenchless Technology (India) Pvt. Ltd. vs. The State of M.P. and others) by a Coordinate Bench as well as this Bench vide order dated 16.03.2022 passed in W.P.No.344/2022.

7. Thus, in view of the above and the mistake in question being bonofide this Court invoking the principle of parity, directs that the impugned orders dated 05.09.2019 (Annexure P/6) and 27.05.2019 (Annexure P/4) passed by respondent Nos. 2, Joint Commissioner State Tax, (Appellate Authority) Bhopal Division, Bhopal and 3, State Tax Officer, Anti Evasion Bureau, Bhopal respectively, are quashed.

8. It is further directed that the respondents will be at liberty to consider the case of the petitioner for imposition of a minor penalty, while treating the mistake in question, to be a clerical mistake as per Circular dated 14.09.2018 bearing No.CBEC/20/16/03/2017-GST, issued by Ministry of Finance, Government of India.

9. Consequently, the writ petition stands **allowed** to the extent indicated hereinabove. No order as to costs.

(SHEEL NAGU)
JUDGE

DV

(VIRENDER SINGH)
JUDGE