

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10771 OF 2023

NRB Bearings Ltd.

... Petitioner

Versus

1. The Commissioner of State Tax
2. The Deputy Commissioner, SCST, Thane
Commissionerate
3. State of Maharashtra
4. Bajaj Auto Ltd.

...Respondents

Mr. Dev Shanmuga i/b. Mr. Sriram Sridharan for the petitioner.

Mr. Karan Adik a/w. Mr. Ram Ochani for the respondent.

Ms. Shruti D. Vyas, Addl. G.P. a/w. Ms. P.J. Gavhane, AGP for the State.

Mr. Shamiana H. i/b. MAX Legal for respondent no. 4.

**CORAM: G. S. KULKARNI &
 FIRDOSH P. POONIWALLA, JJ.**
DATED: 14 February, 2024

Oral Judgment : (Per G.S. Kulkarni, J.)

1. Rule. Returnable forthwith. Respondents waive service. By consent of the parties, heard finally.
2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

“(a) that this Hon’ble Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records of the petitioners’ case and after examining the legality and validity thereof, allow the petitioners to rectify the GSTR-I for the period 2017-2018;

(b) that this Hon'ble Court be pleased to declare that respondent no. 4 is eligible to avail ITC to the extent of Rs.64,36,188/- denied to them due to clerical error by petitioner."

3. The case of the petitioner is that the petitioner approached the jurisdictional officer/respondent no. 2 to allow the petitioner to alter/amend the invoice details pertaining to F.Y. 2017-18 in GSTR-1 for the month of December, 2019. The letter is addressed by the petitioner to respondent no. 2 to provide the petitioner of an option of amending the said invoices.

4. It is the case of the petitioner that during the pendency of the said application, the petitioner received confirmation from the job workers confirming that they have not availed the input tax credit. On 6 January, 2022, an application was filed before the Central Jurisdictional Commissionerate/respondent no. 4 in relation to the disallowance of credit to respondent no. 4 on account of the mismatch between GSTR-3B and GSTR-2A. It is stated that by communication received by the petitioner on 27 January, 2022, the Central Jurisdictional Commissionerate informed the petitioner that no proceedings had been initiated against respondent no. 4, in this regard as also no communication was received from the State Jurisdictional Commissionerate.

5. The petitioner has also referred to the guidelines which were issued by the State of Maharashtra in its Circular No. 02A of 2022 on the issues arising

from ITC claims, in pursuance of which, it is contended that on 9 May, 2022, the petitioner obtained a certificate from its Chartered Accountant, certifying that the petitioner had duly discharged GST on the transaction in dispute. The said certificate was stated to be shared by the petitioner with respondent no. 4 on 23 August, 2022, however, no response was received. It is in these circumstances, the present petition is filed praying for the reliefs as noted hereinabove.

6. The contention of the petitioner that there is no provision either under the CGST Act or under the CGST Rules for rectification of bonafide errors made in GSTR-1. It is contended that there is also no revenue implication in that regard. It is on such premise, as no action was taken on the application of the petitioner so as to permit the petitioner to correct the bonafide error, the petitioner would contend that it is legitimately entitled for reliefs as prayed for.

7. In support of the above contentions, the petitioner has placed reliance on the decision in the case of **M/s. Star Engineers (I) Pvt. Ltd. vs. Union of India & Ors.** dated 14 December, 2023 wherein similar issues had fell for consideration of this Court. The court considering the provisions of the CGST Act had observed that in cases where there was a bonafide error in filing of the return and when there was no loss of revenue caused to the Government/exchequer, the technicalities on any legitimate rectification ought

not to come in the way of the assessee, so as to suffer an inadvertent error, which would have a cascading effect. In our opinion, the present situation as brought before the Court is certainly covered as discussed by the Court in **Star Engineers (I) Pvt. Ltd.** (supra).

8. For the aforesaid reasons, we are of the opinion that the petition needs to be allowed. We accordingly allow the petition by permitting the petitioner to rectify the GSTR-1 for the period 2017-18. Ordered accordingly.

9. Insofar as prayer clause (b) is concerned, all contentions of the parties are expressly kept open. If the petitioner intends to make an application in relation to prayer clause (b), he is entitled to do so as may be permissible in law.

10. Disposed of in the above terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI , J.)