Raman Enterprises v. Commissioner of SGST Delhi & Anr.

Whether a Rectification Order under Section 161 of the CGST Act, 2017 rejecting a rectification application filed by the assessee — passed mechanically without affording a hearing and without recording reasons — is sustainable, in view of the third pr

Date of Order: August 22, 2025
Case Law No: GIB-DHC-2025-54
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CASE DESCRIPTION / SUMMARY

Background

A Show Cause Notice was issued on 25th September 2023 for the tax period July 2017 to March 2018, with no date for personal hearing fixed therein. The Petitioner filed its reply on 25th October 2023 with supporting documents. Thereafter, without affording a personal hearing, an impugned order dated 30th December 2023 was passed raising a demand of Rs. 15,39,686/-. The Petitioner, unable to challenge the order immediately due to a dispute with his GST Consultant (who had not informed the Petitioner of the order), filed a Rectification Application on 27th March 2024 under Section 161 of the Act. The Rectification Application was rejected on 28th June 2024 by a one-line mechanical order holding the application to be "unsatisfactory" without providing any reasons as to why no error was apparent on the face of the record. The Petitioner then filed the present Writ Petition challenging both the original demand order dated 30th December 2023 and the Rectification Order dated 28th June 2024.

Relevant Facts

The Petitioner raised two distinct challenges. First, regarding the original demand order, the Petitioner contended it was passed without affording a personal hearing, as the SCN had not fixed any hearing date. The Revenue countered that the Petitioner had filed a reply, had an opportunity of hearing and an efficacious appeal remedy. The Court required the Petitioner to explain the delay through an additional affidavit — the explanation offered was a dispute with the GST Consultant which resulted in unawareness of the impugned order. Second, regarding the Rectification Order, the Petitioner contended that it was dismissed mechanically — without applying mind, without recording any reason as to why no error was apparent on the face of the record, and without affording the Petitioner a hearing before rejecting the application adversely. The Rectification Order merely stated: "I have gone through rectification application and observed that no error/mistake is apparent on record as such I reject the application for rectification" — without any elaboration or reasoning whatsoever.

Third Proviso to Section 161 — Key Statutory Text:
"Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification."

Court Observations (Verbatim)

"*Considering the above as also the facts of the case, in the opinion of the Court no ground for entertaining the challenge against the impugned order has been made out as the Petitioner had an opportunity of filing a reply which it did. Further the delay is not sufficiently explained. The order is of December 2023 and the writ petition has been filed even after the limitation period for filing the appeal has lapsed.*"

— Para 6 (on the original demand order — challenge rejected)

"*The above position of law is clear to the effect that it is necessary to afford a hearing to the assessee when the rectification order adversely affects the said assessee. The said position would also prevail when the rectification application has been preferred by the assessee and the same is being rejected without providing reasons for non-consideration/insufficiency of the grounds raised by the said assessee. This practice, in our view, would be in line with the intent of the third proviso to Section 161 of the Act which stipulates compliance with the principle of natural justice to protect the interest of the assessees.*"

— Para 9 (Court's own finding on Section 161)

"*It is clear from a reading of the said order, that the same is a mechanical order passed without providing reasons as to why there is no error apparent on the face of the record.*"

— Para 11 (on the Rectification Order dated 28th June 2024)

From Suriya Cement Agency v. State Tax Officer (Madras HC, W.P.(MD) No. 7338 of 2024 — relied upon via HVR Solar):

"*The Provisio indicates that when an order is being made adverse to the assessee, then he should be given an opportunity of being heard when the rectification adversely affects any* *person. The principles of natural justice had been inbuilt by way of the 3rd Proviso to Section 161. If pursuant to a Rectification Application, if a rectification is made and if it adversely affects the assesse, Proviso 3 contemplates an opportunity of hearing to be given. However, when an Rectification Application is made at the instance of assessee and the rectification is being sought to be rejected without considering the reasons for rectification or by giving reasons as to why such rectification could not be entertained. It is also imperative that the assessee to be put on notice.*"

— Para 8 of Suriya Cement Agency, as quoted in Para 8 of the present judgment

Final Verdict

Original Order — Against Assessee

Challenge to demand order dated 30.12.2023 refused. Delay not sufficiently explained; writ filed after appeal limitation period lapsed; petitioner had filed a reply.

Rectification Order — For Assessee

Rectification Order dated 28.06.2024 set aside as mechanical and without reasons. Fresh hearing directed; reasoned order to be passed thereafter.

Appellate remedy of the Petitioner after the fresh rectification order is expressly kept open. Petition disposed of accordingly.

Cases Referred by Court

HVR Solar Private Limited v. Sales Tax Officer Class II Avato Ward 67 & Anr.Relied upon
2025:DHC:2476-DB — Delhi High Court (Division Bench) — Considered the third proviso to Section 161 of the CGST Act; basis for the court's analysis in the present case

Suriya Cement Agency v. State Tax OfficerRelied upon
W.P. (MD) No. 7338 of 2024 — Madras High Court — Decided on 21 November 2024 — Held that rejection of a rectification application without hearing the assessee and without recording reasons is impermissible under the third proviso to Section 161; assessee must be put on notice even when the application is filed at the instance of the assessee and is being rejected