

Issue Involved

Challenging the audit report issued under Section 65(6) through filing a writ petition.

Held that

Since assessing officer found no error apparent on face of record for which request of petitioner-assessee to wait for disposal of rectification application should be accepted, therefore, proceedings initiated under Section 73 were declared as valid and writ petition against non-consideration of rectification application was dismissed

Case Reference

[2023] 151 taxmann.com 3 (Patna)

Facts of the Case:

Revenue:

- The revenue authority, represented by the Respondent, Union of India, opposed the petitioner's claims. They argued that the audit report had been finalized after giving the petitioner an opportunity to be heard, and there was no need for rectification under Section 161.
- They asserted that the discrepancies mentioned in the rectification application were not errors apparent on the face of the record but rather an attempt by the petitioner to seek a review of the audit report.
- The revenue authority maintained that the SCN issued u/s 73 was valid and that the Assessing Officer had considered the audit report and satisfied himself before initiating proceedings u/s 73. They contended that the petitioner's objections could be raised during the ongoing proceedings before the Assessing Officer.

Petitioner:

- The petitioner, Singh Caterers and Vendors, filed a writ petition challenging the audit report issued under Section 65(6) of the BGST Act, 2017.
- They also raised the issue of non-consideration of their rectification application under Section 161 of the Act.
- The petitioner argued that the show-cause notice issued by the Assessing Officer should not proceed without considering their rectification application, as it had the potential to rectify any errors in the audit report. They contended that the rectification application was a legitimate request for review of the order based on the audit report.

Contributed By



CA Vaibhav Jain

Partner

vaibhavjain@mehragoelco.com



CA Prashant Agrawal

Assistant Manager- Taxation

prashantagrawal@mehragoelco.com



Summary:

The case involves Singh Caterers and Vendors (the petitioner), who challenged the audit report issued under Section 65(6) of the BGST Act, 2017, and the non-consideration of their rectification application under Section 161 of the Act. The revenue authority argued that the rectification application did not raise any errors apparent on the face of the record and initiated proceedings under Section 73 based on the final audit report. The court upheld the revenue's position, stating that the show-cause notice indicated the petitioner's request to wait for the rectification application's disposal, but there was no error warranting rectification. The writ petition was dismissed, allowing the proceedings under Section 73 to continue.

Notes to News & Updates:

Please note that Facts of the Case and Queries are as summarized by us based on our reading of case law and our interpretation based on law prevailing as on the judgement date. No assurance is being given on the correctness of the facts, and our opinion / analysis is given solely based on facts provided herein above.

Please note that this news and update is prepared by author for spreading knowledge, and the view is a matter of interpretation, and law is subject to various interpretations. The application of law and impact can vary widely based on the specific facts and interpretation of statute. Our views expressed above is based on facts and assumptions indicated above. No assurance is given that the authorities and/or Courts will concur with our views. We do not accept any liability, for any loss or damage caused as a result of any action taken on the above opinion expressed by us.

We hope you will find the above in order and we shall be too glad to provide any other assistance as may be required. In case you are looking specific expert help in relation to matters connected to this update or otherwise, please feel free to write to us on vaibhavjain@mehragoelco.com ; mg@mehragoelco.com

New Delhi

503, Chiranjiv Tower, 43,
Nehru Place, New Delhi 110019. India
+91-11-2622-3712, 26226933

Pune

Flat No 03, Plot No 28,
Gowardhan Housing Society,
Maharshi Nagar, Pune – 411037

Gurugram

GLOBAL BUSINESS SQUARE
Building No. 32, Sector 44,
Institutional Area, Gurgaon, 122002, India
Tel : +91-124-4786200

Chennai

Sri Raghava Nilayam, Old No 38 , New No
28, West Circular Road, Mandavelipakkam,
Chennai, Tamil Nadu, India, 600028

Mumbai

305-306, Garnet Palladium,
Goregaon (East), Mumbai,
Maharashtra-400063

Dubai (UAE):

R-3035, Reef Tower,
Cluster O, Jumeriah Lake Tower,
Dubai, UAE.

