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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9575/2017 & CM No.38987/2017

**SALES TAX BAR ASSOCIATION
(REGD.) & ANR.**

..... Petitioners

Through : Mr. Puneet Agrawal, Mr. Rakesh Aggarwal, Mr. Sanjay Sharma, Mr. Suresh Agrawal, Mr. B.R. Jain, Ms. Purvi Sinha, Mr. Chetan Shukla, Mr. Yuvraj Singh and Mr. Ashok Aggarwal, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through : Ms. Maninder Acharya, ASG with Mr. Anurag Ahluwalia, CGSC along with Mr. Harshul Choudhary, Mr. Sahil Sood, Mr. Viplav Acharya and Ms. Malika, Advs. for UOI.
Mr. Satyakam, ASC with Mr. Mohit Kumar Bafna, Adv. for GNCTD.
Mr. Nitya Sharma, Standing Counsel for GST/R-3.
Ms. Nidhi Mohan Parashar and Mr. M.A. Arunesh, Advs. for R-4/GSTN.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

13.12.2018

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Learned counsel for the parties have made submissions. It was submitted by Ms. Maninder Acharya, learned Additional Solicitor General on behalf of the Central Government, firstly, that with respect to the rectification of returns, suitable amendments have been carried out in Section 39(9) to facilitate at least two rectifications within a specified period.

Learned counsel for the petitioners pointed out however, that Section 39(9) is subject to Section 37 – which deals with the general power of rectification and that provision does not indicate any cap. It is pointed out that both, Sections 37 and 39(9) are to be read with Rules – in this case Rule 71 – sub-rules (2) and (3) which in fact indicate that there can be “rectification for a month”, thus implying that a rectification within a month is not necessary but that as many rectifications, as are necessary, for the dealers to correct the mistakes discerned later not merely on account of its errors but on account of the errors, in receipt of inputs or from the buyers’ transactions would also be admissible. Given these provisions, this Court is of the *prima facie* opinion that placing a quantitative cap over a specified period may not be permissible. Learned ASG submitted that certain instructions would be sought in this regard.

It was submitted by the learned ASG, secondly, that the date for filing annual return has now been extended to 31.03.2019 in exercise of power under Section 172 of the Central Goods and Services Tax Act, 2017 read with the Removal of Difficulties Order, 2018. In these circumstances, that issue does not survive.

Learned counsel for the petitioners pointed out that apart from the routine rectifications, other corrections such as inadvertent reflection of a mandatory GST registration form, as voluntary or *vice versa*, which can lead to serious consequences cannot be rectified in the existing format in the GST portal. Learned ASG submitted that on this aspect, instructions would have to be obtained.

List on 18.02.2019.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

DECEMBER 13, 2018

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