IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF NOVEMBER 2020

BEFORE

THE HON'BLE MR. JUSTICE B. M. SHYAM PRASAD

WRIT PETITION NO.11598/2020 (T/RES)

BETWEEN :

M/S. URBANIZE DEVELOPERS
INDIA PRIVATE LIMITED
NO.728 6TH 'B' CROSS
KORAMANGALA BLOCK-3
BENGALURU - 560 034
REPRESENTED BY ITS DIRECTOR
KUMAR HIRANI
S/O LATE KISHAN G HIRANI
AGED ABOUT 58 YEARS

... PETITIONER

(BY SRI P.B. HARISH, ADVOCATE)

AND :

THE ASSISTANT COMMISSIONER OF
COMMERCIAL TAXES OFFICE OF
COMMISSIONER OF CENTRAL TAX
GST LVO-60, BENGALURU – 560 098.

... RESPONDENT

(BY SRI HEMA KUMAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE DIRECTION TO THE RESPONDENT TO CONSIDER THE REPRESENTATION MADE VIDE LETTER DATED 03.09.2020 (ANNEXURE-C) AND

LETTER DATED 10.09.2020 (ANNEXURE-D) AND UNBLOCK THE CREDITS ON THE ELECTRONIC LEDGER OF THE PETITIONER ANE ETC.

THIS WRIT PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner, a private limited company which is registered with GST Authorities with the State of Karnataka, has filed this writ petition for a direction to the Assistant Commissioner of Commercial Taxes, GSTLVO-60 [the respondent] to consider the petitioner's representations dated 3.09.2020 and 10.09.2020, and to unblock the petitioner's Electronic Ledger.

2. The learned Counsel for the petitioner submits that the petitioner has filed its Returns in the prescribed form in GSTR-3B for the month of March 2019 on 12.12.2019 along with the late fee for the delay in filing the Returns. In the month of January, 2020 the petitioner is served with an

advisory to deposit the amount equivalent to the belatedly availed credit along with applicable interest informing the petitioner that it could not have filed Returns availing such credits after the prescribed date and the same is impermissible under Section 16[4] of the CGST Act 2017. Thereafter, the petitioner is informed by another email in the month of February, 2020 that the petitioner's electronic ledger is blocked for utilization. The petitioner has filed its representations dated 03.09.2020 and 10.09.2020 requesting the respondent to unblock the Electronic Ledger.

3. The learned counsel also submits that the respondent could have blocked the petitioner's Electronic Ledger only in exercise of power under Rule 86A of the GST Rules, and this Rule has inbuilt safeguards inasmuch as it provides that the Electronic Ledger could be blocked for the reasons to be recorded in writing. However, the *email* dated 7.2.2020 does not record any reasons, and given the provisions of the GST Act and for the reasons elaborated in

the representation dated 03.09.2020, it is permissible to avail Input Credit belatedly subject to payment of late fee. The respondent is obliged to consider the petitioner's representation.

4. Sri. Hema Kumar, learned Additional Government Advocate, submits that the representation is given by the petitioner only on 03.09.2020, and the petitioner's representations will be considered and suitable decision taken if reasonable time is granted. The learned Additional Government Advocare also submits that because the petitioner has changed its registered address, the present jurisdictional officer would be the Assistant Commissioner of Commercial Taxes - LGSTO - 20 Bengaluru-9 and the petitioner may be called upon to give a representation to this officer to facilitate an expedited consideration of the petitioner's case.

In the light of these submissions, this Court is of the considered view that the writ petition could be disposed of, without expressing any opinion on merits, permitting the petitioner to file a representation with the Assistant Commissioner of Commercial Taxes – LGSTO – 20, Bengaluru enclosing a copy of this order, and this Officer shall expeditedly consider the petitioner's representations but within an outer period of 6 [six] weeks from the date of such representations. The writ petition is accordingly disposed of.

SD/-
JUDGE

SA/-
Ct:sr