IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2019

BEFORE

THE HON'BLE MRS.JUSTICE S.SUJATHA

WRIT PETITION No.32009/2019 (T – RES)

BETWEEN :

M/S SAMSUNG R & D INSTITUTE-INDIA
BANGALORE PRIVATE LIMITED,
CIN: U72200KA2004PTC035309,
HAVING REGISTERED OFFICE AT # 2870,
PHOENIX BUILDING,
BAGMANE CONSTELLATION BUSINESS PARK,
OR ROAD, DODDANEKUNDI CIRCLE,
MARATHAHALLI POST,
BANGALORE-560037
REP BY ITS AUTHORISED SIGNATORY,
MR. HEE JOON KANG ...PETITIONER

(BY SRI PRASHANTH SHIVADASS, ADV.)

AND :

1 . THE CENTRAL BOARD OF
INDIRECT TAXES AND CUSTOMS
THROUGH ITS CHAIRMAN,
REP BY ITS JOINT SECRETARY
NORTH BLOCK, NEW DELHI-110001

2 . THE COMMISSIONER OF CENTRAL TAX
EAST COMMISSIONARATE,
TTMC, BMTC COMPLEX,
OLD AIRPORAT ROAD,
DOMLUR, BANGALORE-560071

3 . THE ASSISTANT COMMISSIONER
OF CENTRAL TAX

EAST COMMISSIONARATE,
TTMC, BMTC COMPLEX,
OLD AIRPORAT ROAD,
DOMLUR, BANGALORE-560071

4 . GOODS AND SERVICES TAX NETWORK
EAST WING, 4TH FLOOR,
WORLD MARK-1, AEROCITY,
NEW DELHI-110037
REP. BY CEO, AUTHORISED SIGNATORY

5 . THE UNION OF INDIA
REP BY JOINT SECRETARY,
DEPARATMENT OF REVENUE,
MINISTRY OF FINANCE,
TRU, 128-A/NORTH BLOCK,
NEW DELHI

6 . THE NODAL OFFICER
ADDITIONAL COMMISSIONER (PCCO),
OFFICE OF PRINCIPAL
COMMISSIONER OF CENTRAL TAX,
BANGALORE ZONE,
C.R. BUILDING, QUEENS ROAD,
BANGALORE-560001 ...RESPONDENTS

(BY SRI K.M.SHIVAYOGISWAMY, ADV.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO ALLOW THE PETITIONER TO CLAIM REFUND THE INPUT TAX CREDIT BY DIRECTING THE R-3 TO ACCEPT THE APPLICATION FOR REFUND OF INPUT TAX CREDIT UNDER THE CATEGORY OTHERS EITHER ON THE ONLINE PORTAL OR MANUALLY FOR THE RELEVANT PERIOD JULY 2017, AUGUST 2017, OCTOBER 2017 AND OTHER RELEVANT PERIODS.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN ‘B’ GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

<u>O R D E R</u>

The petitioner has sought for the following reliefs:

a) Issue necessary writ(s), direction(s) and/or pass necessary orders directing the respondents to allow the petitioner to claim refund of input tax credit by directing the respondent No.3 to accept the application for refund of input tax credit under the category "Others" either on the online portal or manually for the relevant period "July 2017, August 2017, October 2017" and other relevant periods.

b) Issue writ of declaration and/or any other appropriate writ(s) directing the respondent No.2 to give benefit of Circular No.94/13/2019-GST dated March 28,2019 (Annexure-J) issued by the Ministry of Finance to consider the application for refund of the eligible input tax credit by electronic mode and permit/enable the online portal maintained by the GSTN to accept the application for refund of Input tax credit *or accept the application under manual mode.*

c) *Issue writ of declaration and/or any other appropriate writ(s) directing the respondent No.3 to consider the application for refund of the eligible input tax credit by electronic mode and permit/enable the online portal maintained by the GSTN to accept the application for refund of Input tax credit or in the alternative direct the respondent No.2 to accept and process the refund of input tax credit by way of manual mode;*

d) *To issue order/s directions, writ(s) or any other relief as this Hon'ble Court deems it fit and proper in the facts and circumstance of the case in the interest of justice.*

2. In view of the Circular No.125/44/2019 –GST dated 18/11/2019, issued by the Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, whereby it is instructed that the

provisions of the Circular dated 28/03/2019 shall continue to apply for refund applications filed in common portal before 26/09/2019 and the said applications shall continue to be processed manually as prior to the deployment of new system, the reliefs claimed in the writ petition are redressed.

Hence, the writ petition stands disposed of directing the respondent No.2 to consider the application of the petitioner for refund of input tax credits in terms of the circular as referred to above.

Sd/-
JUDGE

Msu