

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF DECEMBER, 2019

BEFORE

THE HON'BLE MRS. JUSTICE S.SUJATHA

W.P.No.51873/2019 (T-RES)

BETWEEN:

M/S. CROPCARE SUPPLIES
I FLOOR, SUPARIWALA BUILDING
NIRESHWALLYA ROAD BUNDER
MANGALORE – 575 001
REPRESENTED BY IT'S PROPRIETOR
PUNIKULANAGARA JAMES JOSE

...PETITIONER

(BY SRI ATUL KRISHNA RAO ALUR, ADVOCATE)

AND:

1. UNION OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
THROUGH ITS SECRETARY (REVENUE)
NORTH BLOCK
NEW DELHI – 110 001
2. GOODS AND SERVICE TAX NETWORK
THROUGH ITS CHAIRMAN
EAST WING, 4TH FLOOR
WORLD MARK – 1, AEROCITY
NEW DELHI – 110 037
3. THE OFFICE OF THE GOODS AND SERVICE TAX
COUNCIL, TOWER 11, 5TH FLOOR
JEEVAN BHARTHI BUILDING
JANPATH ROAD, CONNAUGHT PLACE
NEW DELHI – 110 001

4. THE NODAL OFFICER/
PRINCIPAL CHIEF COMMISSIONER – DIVISION 7
CENTRAL GOODS AND SERVICE TAXES
BENGALURU WEST COMMISSIONERATE
POST BOX NO.5400, C.R.BUILDING
BENGALURU – 560 001
5. THE ASSISTANT COMMISSIONER OF
CENTRAL EXCISE AND CENTRAL TAX (GST)
SOUTH DIVISION, 5TH FLOOR
PUNJA BUILDING ANNEXE, LALBAGH
MANGALORE – 575 003
6. SUPERINTENDENT OF CENTRAL EXCISE AND
CENTRAL TAX, BUNDER RANGE
MANGALORE – 575 003
7. COMMISSIONER OF CENTRAL TAX (APPEALS)
NO.71, CLUB ROAD
BELGAVI – 590 001
8. JOINT COMMISSIONER OF COMMERCIAL
TAXES (APPEALS)
VANIJYA TERIGE BHAVANA
OPPOSITE TO NEHARU MAIDANA
2ND FLOOR, MANGALORE – 575 001

...RESPONDENTS

(BY SRI JEEVAN J.NEERALAGI, CGC FOR R1 TO R3;
SRI T.K. VEDAMURTHY, AGA FOR R4 TO R8)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE LETTER/ORDER DATED 29.03.2019 AT ANNEXURE-D ISSUED BY THE R5 IN SO FAR AS THE PETITIONER IS CONCERNED AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The petitioner has challenged the letter/order dated 29.03.2019 issued by respondent No.5 as well as the endorsement dated 04.07.2019 issued by respondent No.8 and the letter/order dated 16.08.2019 issued by respondent No.7 insofar as the petitioner is concerned, inter alia seeking a direction to the respondents to reopen the GST Common Portal to avail the eligible credit in the electronic credit ledger of the petitioner and permit the petitioner to insert/fill Part-7B of Table 7(a) of TRAN-1 and further permit to file TRAN-2 to claim credit related to stock insofar as the petitioner is concerned, considering the representation dated 22.03.2019 submitted by the petitioner.

2. The petitioner claims to be a proprietorship concern engaged in the business of agricultural pesticides and fertilizers. The petitioner was covered

under the provisions of the Karnataka Value Added Tax Act, 2003 ('KVAT Act' for short) in the VAT regime. It is contended that the petitioner is now registered under the provisions of the Central Goods and Service Tax Act, 2017 ('CGST Act' for short). The Government of India has allowed the claim of the transition relief to the registered dealers who have maintained the books of accounts. As provided in the Rule 117 of the GST Rules read with Section 140 of the CGST Act, the registered dealer is required to submit a declaration electronically in Form GST TRAN-1 duly uploaded in common portal specified therein.

3. It is contended that the petitioner has uploaded GST TRAN-1 Form in GST Portal but due to non-filing of few columns in TRAN-1, TRAN-2 was not uploaded. In this background, the petitioner has filed the representation dated 22.03.2019 before respondent No.6- Superintendent of Central Excise and Central

Tax. However, the same has been rejected. The rejection order was challenged before the respondent No.8. Respondent No.8 has returned the papers on the premise that the appeal is maintainable before the CGST Authority. Again, the petitioner has approached before respondent No.7, but in vain. Hence, this writ petition.

4. The main grievance of the petitioner is that GST TRAN-2 Form could not be uploaded by the petitioner under the common portal since there was some defects in uploading the TRAN-1, more particularly, Part-7B of Table 7(a) of TRAN-1 was left blank.

5. This Court in Writ Petition No.19076/2019 dated 26.04.2019, in the context of uploading of GST TRAN-2 Form on the very same reason of the defective TRAN-1, directed the petitioner to approach the Nodal Officer to avail the benefit of the Circular dated

03.04.2018 to upload the TRAN-2 in GST Portal. This decision has been confirmed in Writ Appeal No.1840/2019 dated 27.11.2019 rejecting the appeal filed by the revenue.

6. For the reasons aforesaid, Annexure - D dated 29.03.2019 issued by the respondent No.5 insofar as the petitioner is concerned is set aside. The petitioner is directed to approach the Nodal Officer-respondent No.4. Respondent No.4 shall consider the case of the petitioner in the light of the direction issued by this Court in Writ Petition No.19076/2019 dated 26.04.2019 as well as in Writ Petition No.33290/2019 and allied matters disposed of on 19.11.2019, wherein the period is extended by 31.12.2019 to furnish TRAN-1. A suitable decision shall be taken to permit the petitioner to file/revise the TRAN-2 either electronically or manually. The compliances shall be made in an expedite

manner, in any event, not later than 8 weeks from the date of receipt of certified copy of this order

7. It is needless to observe that the respondents are at liberty to verify the genuineness of the TRAN-1/2 on the merits of the claim of the petitioner in accordance with law.

Accordingly, the writ petition stands disposed of.

**Sd/-
JUDGE**

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