IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JUNE, 2019

BEFORE:

THE HON'BLE MRS. JUSTICE S.SUJATHA

**WRIT PETITION No.22368/2019 (T – RES)**

**BETWEEN:**

M/s AT & S INDIA PVT. LIMITED
12A, INDUSTRIAL AREA
NANJANGUD, MYSORE-571301
REP BY SHRI MANJUNATHA K.,
MANAGER-INDIRECT TAXATION ... PETITIONER

[BY SRI RAVI RAGHAVAN A/W SMT.MANASI KHARE, ADVS.]

**AND:**

1. THE UNION OF INDIA
THROUGH ITS REVENUE SECRETARY
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE
128-A, NORTH BLOCK
NEW DLEHI-110001

2. THE CENTRAL BOARD OF INDIRECT
TAXES AND CUSTOMS
THROUGH ITS CHAIRMAN
NORTH BLOCK, NEW DLEHI-110001

3. THE GOODS AND SERVICES TAX COUNCIL
5TH FLOOR, TOWER II,
JEEVAN BHARTI BUILDING
JANAPATH ROAD, CONNAUGHT PLACE
NEW DELHI-110001

4. THE STATE OF KARNATAKA
THROUGH THE GOVERNMENT PLEADER
HIGH COURT KARNATAKA

BENGALURU-560001
REP. BY PRINCIPAL SECRETARY.

5. THE PRINCIPAL COMMISSIONER OF
CENTRAL GST AND CENTRAL EXCISE
VINAYA MARGA, SIDDHARTHA NAGAR
MYSORE-570011

6. THE ADDITIONAL COMMISSIONER
OF CENTRAL TAX, VINAYA MARGA,
SIDDHARTHA NAGAR, MYSORE-570011

7. THE ASSISTANT COMMISSIONER
OF CENTRAL TAX, VINAYA MARGA,
SIDDHARTHA NAGAR, MYSORE-570011

8. THE SUPERINTENDENT
OF CENTRAL TAX
VINAYA MARGA,
SIDDHARTHA NAGAR
MYSORE-570011 ...RESPONDENTS

[BY SMT.M.R.VANAJA, ADV. FOR R-1 TO R-3 & R-5 TO R-8;
SRI T.K.VEDAMURTHY, AGA FOR R-4.]

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE LETTER DATED 24.04.2019 ISSUED BY THE R-6 ENCLOSED AT ANNEXURE-A AS ILLGAL, ATBITRARY AND VIOLATIVE OF ARTICLE 14 AND ARTICLE 19[1][g] OF THE CONSTITUTION OF INDIA.

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

**O R D E R**

The petitioner has challenged the communication dated 24.04.2019 issued by the respondent No.6, whereby the request of the petitioner to credit 50% of the capital goods for the period April 2017 to June 2017 in Form GST TRAN-1 has been denied.

2. The petitioner is a Company engaged in manufacturing, trading and selling of high technology Printed Circuit Board. The petitioner was registered as a manufacturer under the Central Excise Act, 1944, as a Service Provider under the Finance Act, 1994 and also a dealer under the Karnataka Value Added Tax Act 2003. The petitioner while uploading Form GST TRAN-1 noticed Rs.1,16,45,079/- being unavailed credit of 50% in respect of the Capital goods has not been entered in their Electric ledger and filed a complaint with the help desk, but has not yielded any response. Several requests were made before the respondents-Authorities. Finally, respondent No.6 vide Annexure-A dated 24.04.2019 rejected the request of the petitioner to revise the Form GST-TRAN-1 as claimed. Hence, this petition.

3. Learned Counsel Sri. Ravi Raghavan appearing for the petitioner placing reliance on the order of this Court in the case of M/s Kongovi Private Limited Vs. The Union of India and others, (2019 VIL-132-KAR, would submit that any technical glitches arising out of the petitioner/assesse's inadvertence also requires to be addressed by the Nodal Officer appointed in terms of the Circular instructions dated 03.04.2018. Mentioning Zero in Clause No.11 of Table VI of Form GST TRAN-1 instead of repeating the amount mentioned in Clause No.10 was only a typographical error and was inadvertently committed at the time of uploading the Form GST TRAN-1. The same ought to have been considered by the respondent authorities in right perspective.

4. Learned counsel Smt. M.R. Vanaja appearing for the respondents 1 to 3, 5 to 8 justifying the impugned order submits that the typographical error

could not be construed as technical glitches calling for interference of the Nodal Officer to redress the grievance of the petitioner.

5. Having heard the learned counsel for the parties and perusing the material on record, it is evident that figure mentioned in Form GST TRAN-1 appears to be a technical glitch arising out of the inadvertence of the petitioner. This Court in the case of ***M/s Kongovi Private Limited, supra,*** has categorically held in para No.21 of the judgment as under:

> *"....such technical glitches arising out of the petitioner/assesse's inadvertence requires to be addressed by the Nodal Officers appointed in terms of Circular instructions dated 03/04/2018 supra. The object and purpose of the transitional arrangements made under Section 140 of the Act requires to be achieved to its logical end. Hence keeping open all the rights and contentions of the parties, it would be appropriate for this court to direct the petitioner to approach the Nodal Officer appointed for the State of Karnataka in terms of circular dated 03.04.2018."*

*6.* In view of the aforesaid, impugned order at Annexure-A is set aside. The proceedings are restored to the file of respondent No.6 to re-consider the request of the petitioner for redressal of the grievances in accordance with law.

The assessee shall appear before the respondent No.6 on 08.07.2019. The Nodal Officer shall address the grievance of the petitioner in an expedite manner.

Writ petition stands disposed of, in terms of the above.

**Sd/-**
**JUDGE**

Psg*