# IN THE HIGH COURT OF KARNATAKA, BENGALURU

## DATED THIS THE 11th DAY OF OCTOBER 2018

## BEFORE

## THE HON'BLE Dr.JUSTICE VINEET KOTHARI

## WRIT PETITION Nos.28653/2018 & 29276/2018 (T-RES)

**BETWEEN:**

1. INDUSIND MEDIA COMMUNICATIONS LTD.
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT 1956, AND HAVING ITS
REGISTERED OFFICE AT GROUND FLOOR
37, A WING, BRAHMANANDA COURT
LAL BAUGH ROAD, BANGALORE-560027
REPRESENTED BY ITS ASSISTANT
GENERAL MANAGER (TAXATION)
MR. PRAMOD MEHTA
AGE 35 YEARS
S/O PRAKASH C MEHTA.

2. GRANT INVESTRADE LIMITED
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT 1956
AND HAVING ITS REGISTERED OFFICE AT
3RD FLOOR, NO.109, K H ROAD
BANGALORE-560027.
REPRESENTED BY ITS ASSISTANT
GENERAL MANAGER (TAXATION)
MR. PRAMOD MEHTA, AGE 35 YEARS
S/O PRAKASH C MEHTA.

... PETITIONERS

(By Mr. MONISH PANDA, ADV., FOR
Mr. HARISH BINDUMADAVAN, ADV.,)

**AND:**

1. UNION OF INDIA
THROUGH DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE
46/NORTH BLOCK, NEW DELHI-110001.
REPRESENTED BY ITS JOINT SECRETARY.

2. THE MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS
HAVING ITS OFFICE AT AYAKAR BHAVAN
M K ROAD, CHURCHGATE MUMBAI-400020
REPRESENTED BY ITS JOINT SECRETARY.

3. GST COUNCIL
5TH FLOOR, TOWER II
JEEVAN BHARTI BUILDING
JANPATH ROAD
CONNAUGHT PLACE
NEW DELHI-110 001.

4. COMMISSIONER GST
HAVING HIS OFFICE AT POLICY CELL
GOODS & SERVICE TAX
CENTRAL BOARD OF INDIRECT TAXES
& CUSTOMS DEPARTMENT OF
REVENUE, MINISTRY OF FINANCE
GOVERNMENT OF INDIA, NORTH BLOCK
DELHI-110001.

5. GSTN CHAIRMAN
GOODS AND SERVICE TAX NETWORK
EAST WING, 4TH FLOOR, WORLD MARK -1
AEROCITY, NEW DELHI-110037.

6. COMMISSIONER GST (JURISCIDTIONAL)
COMMISSIONER OF COMMERCIAL TAXES -GST
DEPARTMENT OF COMMERCIAL TAXES
VANIJYA THERIGE KARYALAYA
KALIDASA MARG, GANDHINAGAR
BENGALURU, KARNATAKA-560009.

7. ASSISTANT COMMISSIONER OF COMMERCIAL TAXES
1ST FLOOR, V.T.K.-2, LGSTO-040
KORAMANGALA 2ND STAGE

RAJENDRA NAGAR
BANGALORE-560047.

... RESPONDENTS

(By Mr. VIKRAM A. HUILGOL, SR. CGSC FOR R1 TO R5
Mr. VIKRAM A. HUILGOL, HCGP FOR R6 & R7)

THESE W.Ps. ARE FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT UNDER ARTICLE 226 OF THE CONSTITUTIONOF INDIA DIRECTING THE RESPONDENTS TO GRANT THE BENEFIT OF RS.2.18 CRORES TO THE PETITIONERS WHICHIS NOT REFLECTED IN THE ELECTRONIC CREDIT LEDGER FOR THE STATE OF KARNATAKA & ETC.

THESE W.Ps. COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

**ORDER**

**Mr. Monish Panda,** Adv. for
Mr. Harish Bindumadavan, Adv. for Petitioners
**Mr. Vikram A. Huilgol,** Sr. CGSC for R1 to R5
Mr. Vikram A. Huilgol, HCGP for R6 & R7

1. The grievance raised by the petitioners - company in the present case is that certain practical and technical difficulties had arisen to the petitioner-assessee and others when the change of Tax Regime from VAT/Service Tax Regime to GST Regime took place in India **w.e.f. 01.07.2017.**

2. The online uploading of the Forms and Declaration like **TRANS-1** etc., became difficult due to technical glitches according to the petitioners and therefore, the due credit of the Input Tax Credit **(ITC)** which was lying in the credit of the petitioners-company under the earlier tax regime was not reflected in the Data Base of the Respondent -Government. The assessment orders passed by the 7th Respondent – Asst.Commissioner of Commercial Taxes, Bangalore, has also been challenged in the present writ petitions.

3. The learned counsel appearing for the petitioners - company Mr. Monish Panda has urged that despite the representations filed to the Respondent-Commissioner, GST, Bengaluru – the Jurisdictional Officer, he has not been decided such representation after giving a proper and reasonable opportunity of hearing to the petitioner-assessee.

4. The learned counsel for the Respondent-Commercial Tax Department Mr.Vikram Huilgol however submits that a separate Nodal Officers at the level of Commissioner have been appointed by the Central Government in all the States and they can definitely look into the grievances of the petitioners regarding technical and administrative difficulties faced by the assessee and can pass appropriate orders in the matter. However, the assessee should comply with the condition of filing the requisite returns and declarations in this regard.

5. In view of the aforesaid submissions made at the bar, this Court is not inclined to entertain the writ petitions on the merits of the issues raised in the writ petitions as the same can be addressed by the Authorities under the GST Act and the appellate authorities. The petitioner-company is therefore relegated before the concerned Nodal Officer

(Commissioner) at Bengaluru, before whom the representations already filed by the petitioners-company or which may be now filed afresh with the relevant evidence will be decided by the said Nodal Officer and all the issues relating to administration and technical difficulties faced by the petitioner as raised in the writ petitions will be decided on merits with due and reasonable opportunity of hearing to the petitioners and petitioners complying with the directions of said authority and filing requisite returns and declarations as per the relevant applicable Rules, Circulars and Notifications etc.

6. The petitioners-company should appear before the concerned authority in the first instance on **05.11.2018** at **11 AM** and a period of **two months** is allowed to the said Nodal Authority to pass appropriate orders. Against the impugned assessment orders, the assessee should avail the regular remedy by way of

appeal **u/S.107** of the **KGST Act**. The said appeal if so filed within a period of four weeks from today, it will be entertained without raising the objection of limitation.

7. It is made clear that if any prejudicial order is passed against the petitioners-company by the said Nodal Officer being not in consonance with the provisions of the Act or the relevant and extant Circulars and Notifications issued by the Respondents – State and Central Government from time to time, the petitioners will have liberty to avail the appropriate legal remedy including the invoking of writ jurisdiction of this Court under Article 226 of the Constitution of India against such speaking and reasoned order to be passed by the Nodal Officer.

8. With these observations, the writ petitions are disposed of. No costs.

In view of the disposal of the main writ petition itself, the I.A.2/18 and I.A.3/18 do not survive for consideration and the same also stand dismissed.

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

Srl.