

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 18051 of 2019**

DARSH PHARMACHEM PVT. LTD.

Versus

SUPERINTENDENT, CENTRAL GST

Appearance:

MR. BHAVIK P SHAH(6391) for the Petitioner(s) No. 1

MR. PARTH H BHATT(6381) for the Respondent(s) No. 2

NOTICE SERVED BY DS(5) for the Respondent(s) No. 1

CORAM: HONOURABLE MR.JUSTICE J.B.PARDIWALA

and

HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 11/03/2020

ORAL ORDER

(PER : HONOURABLE MR.JUSTICE J.B.PARDIWALA)

1. Rule, returnable forthwith. Mr.Parth H. Bhatt, the learned standing counsel waives service of notice of Rule for and on behalf of the respondents.

2. By this writ application under Article 226 of the Constitution of India, the writ-applicant has prayed for the following reliefs :

"8.A. Your Lordships may be pleased to admit and allow the present petition.

B. Your Lordships may be pleased to Issue appropriate writ, order or direction upon the concerned respondent authorities to solved the problem of the petitioner of acceptance of TRANS-1 under GST Act, 2017 as well as followed the procedure under Section 140 of GST Act, 2017 and credit/ transferred the amount of Rs. 19,58,619 being closing balance of Central Excise Duty reported in ER-1 return of June, 2017 and Rs. 8,40,911/- being closing balance

of VAT reported in VAT return June, 2017 in Electronic Credit Ledger (online GST account);

C. Pending admission, hearing and final disposal of this petition, by way of an interim-relief Your Lordships may be direction upon the concerned respondent authorities to solved the problem of the petitioner of acceptance of TRANS-1 under GST Act, 2017 as well as decide the application of the petitioner till final disposal of this petition.

D. Pass such other and other orders as thought fit in the interest of justice.

3. We need not advert to the facts in details as the controversy involved in the present case is in a narrow compass.

4. The writ-applicant is engaged in the business of manufacturing of pharmaceutical products. As provided under Section 140 of the CGST Act, 2017, the writ-applicant tried to upload Form TRAN-1 for the purpose of claiming the ITC credit on-line. However on account of the technical glitches, the TRAN-1 was not accepted by the GST common portal.

5. In such circumstances, the writ-applicant took up the issue with the Assistant Commissioner, Division-X, CGST & Excise, Nadiad, Vadodara North vide an application dated 20th February 2018.

6. It is the case of the writ-applicant that for no fault on his part, the TRAN-1 could not be uploaded and in such circumstances, he should be permitted to file the TRAN-1.

7. Having heard the learned counsel appearing for the parties and having gone through the materials on record, we are of the view that the writ-applicant is entitled to seek the benefit of the Order No.01/2020-GST issued by the Government of India, Ministry of Finance dated 7th February 2020, which reads thus :

“Subject: Extension of time limit for submitting the declaration in FORM GST TRAN-1 under rule 117(1A) of the Central Goods and Service Tax Rules, 2017 in certain cases

In exercise of the powers conferred by sub-rule (1A) of rule 117 of the Central Goods and Services Tax Rules, 2017 read with section 168 of the Central Goods and Services Tax Act, 2017, on the recommendations of the Council, and in supersession of Order No. 01/2019-GST dated 31.01.2019, except as respects things done or omitted to be done before such supersession, the Commissioner hereby extends the period for submitting the declaration in FORM GST TRAN-1 till 31st March, 2020, for the class of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and whose cases have been recommended by the Council.”

8. Having regard to the fact that the TRAN-1 could not be filed on account of technical glitches. We

direct the respondent No.2 to permit the writ-applicant to file form in TRAN-1.

9. In view of the order referred to above, let this exercise be undertaken and completed within a period of two weeks from the date of the receipt of the writ of this order.

10. With the above, the writ application stands disposed of. Direct service is permitted.

(J. B. PARDIWALA, J)

(BHARGAV D. KARIA, J)

KUMAR ALOK

