IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 13603 of 2018

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DISHMAN CARBOGEN AMCIS LTD
Versus
UNION OF INDIA THROUGH SECRETARY
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Appearance:
MR D K TRIVEDI(5283) for the PETITIONER(s) No. 1
for the RESPONDENT(s) No. 1,2,3,4,5
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CORAM: **HONOURABLE MR.JUSTICE AKIL KURESHI**
and
HONOURABLE MR.JUSTICE B.N. KARIA

Date : 06/09/2018
ORAL ORDER
(PER : HONOURABLE MR.JUSTICE AKIL KURESHI)

1. Petitioner's case is that with respect to eight invoices, the petitioner could not fill up the declaration and Trans-1 before the last date of 27.12.2017 on account of technical defects in the portal of the department. However, we notice that in the first letter that the petitioner wrote to the department after the deadline of 27.12.2017 was on 05.03.2018 in which, no such averment has been taken by the petitioner. In fact, what is stated is that since those eight invoices were received after filing Trans-1 (which the petitioner had admittedly filed with respect to other invoice) the petitioner was unable to take ITC of the same in the GST regime and after 27.12.2017, Trans-1 amendment was not allowed by the portal. Further, the petitioner had also filed an application for refund of service tax. A copy of which is produced by the counsel for the

petitioner in which also, no such stand was taken. Very clearly therefore, the petitioner's attempt to contend that Trans-1 for the eight invoices could not be filed before 27.12.2017 on account of portal's defect is not correct and is mere afterthought.

2. The petitioner has, however, challenged the validity of Rule 117 of the Central Goods and Service Tax Rules which prescribes the last date for filing Trans-A failing which, the input tax credit of the past regime would not be available in the GST regime. On this issue, we are in the process of hearing another petition being Special Civil Application No. 4252 of 2018. Further hearing of this petition is fixed on 12.09.2018.

S.O. to 12.09.2018.

(AKIL KURESHI, J)

(B.N. KARIA, J)

JYOTI V. JANI