THE HON'BLE SRI JUSTICE RAKESH KUMAR
AND
THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.18607 of 2019

ORDER: (Per Hon'ble Sri Justice M.Seetharama Murti)

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking *verbatim* the following relief/s:

> "……..to issue a Writ of Mandamus or any other appropriate writ or order or direction-
>
> (a) directing the respondents to allow the petitioner to submit its TRAN-1 form on the GSTN Portal in terms of Section 140 of the CGST and APSGST Act, 2017; or
>
> (b) in the alternative permit the petitioner to submit TRAN-1 manually and to direct the respondents to consider TRAN-1 so filed and grant the credit in accordance with the law; or
>
> (c) in further alternative, direct the 1st and 6th respondents to grant a refund of VAT credit of Rs.1,33,77,654/- as shown in the petitioner's VAT 200 return dated 20.07.2017 for the month of June, 2017 and direct the 5th respondent to grant a refund of Cenvat credit of Rs.16,93,424/- available under the Central Excise Act, 1944 as on 30.06.2017 and pass such other orders that this Hon'ble Court may deem fit in the interest of justice."

We have heard the submissions of Sri K.Srinivasa Rao, learned advocate representing Sri S.Dwarakanath, learned counsel appearing for the petitioner; of learned Assistant Solicitor General of India appearing for respondent nos.3 to 5; and, of Sri Y.N.Vivekanand, learned counsel appearing for respondent nos.1 & 2. We have perused the material record.

According to the case of the petitioner, the petitioner made an attempt for online submission of Form GST TRAN-1; but, the petitioner could not file the TRAN-1 due to technical glitches and that the

petitioner's representations were not considered by the respondents, and hence, the present writ petition is filed.

Learned counsel for the petitioner, having drawn the attention of this Court to the order, dated 13.08.2019, of a Coordinate Bench of this Court passed in W.P.No.3298 of 2019, submits that the issue involved in the present writ petition is squarely covered by the aforesaid order.

However, learned Assistant Solicitor General of India contended that the pleading of the petitioner itself indicates that the petitioner could not file Form GST TRAN-1 electronically and that the petitioner could not produce any screen shot evidencing the fact that a genuine attempt was made for submission of the Form GST TRAN-1 within the time allowed under law.

However, it is also submitted that time is extended till 31.12.2019 for filing Form GST TRAN-1 electronically.

Learned counsel for the petitioner in reply would submit that at the relevant point of time, the GST system was in a trial and error phase and that not only the petitioner but several other dealers like the petitioner were unable to even connect to the system on account of network & other failures and that such situation is recognised by various High Courts and that therefore, the petitioner's request merits consideration.

Having given earnest consideration to the facts and submissions, we are satisfied that the present issue is squarely covered by the orders passed in the aforesaid writ petition.

In view of the facts and the legal position obtaining, we are of the considered view that the petitioner's request merits consideration.

Accordingly, for the aforesaid reasons and for the reasons alike as were mentioned in the order, dated 13.08.2019, passed in W.P.No.3298 of 2019, this Writ Petition is disposed of directing the respondents to either open the portal to enable the petitioner to again file the Form GST TRAN-1 electronically or in the alternative accept the Form GST TRAN-1 presented manually, on or before 31.01.2020. It is needless to say that thereafter the petitioner's claim shall be processed in accordance with law.

There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in this Writ Petition shall stand dismissed.

JUSTICE RAKESH KUMAR

JUSTICE M. SEETHARAMA MURTI

Date: 05.12.2019
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05.12.2019

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