IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

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THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.11781 & 11784 of 2019
and
W.M.P.No.11991 of 2019

M/s.Precision Rubber Industries Pvt. Ltd.,
(Rep. by Managing Director)
No.62, T.Balan Nagar,
Kavundampalayam,
Coimbatore-641 203. ... Petitioner in both W.P.s

vs.

1. The Goods and Service Tax Council (GST Council)
   The Secretary Office of the GST Council Secretariat
   5th Floor, Tower-II, Jeevan Bhati Building
   Janpath Road, Connaught Place
   New Delhi - 110 001.

2. The Commissioner of GST & Central Excise
   GST Policy Section
   GST Bhavan, No.6/7, A.T.D.Street,
   Race Course Road, Coimbatore - 641 018. ... Respondent in both W.P.s

Writ Petition No.11781 of 2019 filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records on the files of the second respondent in e-mail dated 22.03.2019 (SI.No.213), quashing the order rejecting the request of the petitioner for filing TRAN-1 to avail the Input Tax Credit and direct the respondents to allow filing of GST - Tran-1 by the petitioner, to carry forward the credit on eligible duties of goods in electronic credit ledger in terms of Section 140(3) and 140(5) of the Central Goods and Services Tax Act, 2017, either by opening of GSTN portal or to allow it to be filed manually.

Writ Petition No.11784 of 2019 filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records on the files of the second respondent in O.C.No.1554/2018 dated 24.08.2018, quashing the order rejecting the request of the petitioner for filing TRAN-1 to avail the Input Tax Credit and direct the respondents to allow filing of GST - Tran-1 by the petitioner, to carry forward the credit on eligible duties of goods in electronic credit ledger in terms of Section 140(3) and 140(5) of the Central Goods and Services Tax Act, 2017, either by opening of GSTN portal or to allow it to be filed manually.

For Petitioner in both W.P.s : Mr.J.Shankar Raman
For Respondent in both W.P.s : Mr.K.S.Ramaswamy
Central Government Standing Counsel

COMMON ORDER

These writ petitions are filed challenging the orders of the second respondent dated 22.03.2019 and 24.08.2018, rejecting the request of the petitioner for filing TRAN-1 to avail the Input Tax Credit and consequently, directing the respondents to allow filing of GST - Tran-1 by the petitioner, to carry forward the credit on eligible duties of goods in electronic credit ledger in terms of Section 140(3) and 140(5) of the Central Goods and Services Tax Act, 2017, either by opening of GSTN portal or to allow it to be filed manually.

2. When these writ petitions were entertained on 16.04.2019, an interim order was passed by this Court as follows:

> *"Mr.K.S.Ramaswamy, learned Central Government Standing Counsel takes notice for respondent No.2 and seeks four (4) weeks time to take instructions and file a counter.*
>
> *2. Learned counsel for the petitioner is permitted to serve notice on Mr.Sundareswaran, learned counsel who appears for GST Council.*
>
> *3. The petitioners' application for assistance in uploading of TRAN-1 Form has been filed as early as on 28.05.2018. Though this was filed before the Nodal Officer, Chennai, it appears to have been transferred to the Nodal Officer, Coimbatore, being the appropriate authority to consider the case of the petitioner. The impugned order dated 22.03.2019 has been passed by the 2nd respondent*

without hearing the petitioner and by way of a cryptic and non speaking comment stating 'the taxpayer has neither tried for Saving/'.

4. According to Mr.K.S.Ramaswamy, learned CGSC, this means that the tax payer has not taken a screen shot of the technical error appearing on the screen. However, the petitioner states that it was unable to even access the website and therefore the question of taking a screen shot does not arise.

5. In the aforesaid circumstances, the petitioner is permitted to appear before the Nodal Officer at Coimbatore on 24.04.2019 at 10.30 a.m. along with the requests/objections filed till date and all materials in support of the objections that will be taken into consideration by the 2 nd respondent in attempting to resolve the dispute raised.

6. List on 12.06.2019. Counter, if any, to be filed prior thereto with an advance copy served on the other side."

3. Thereafter, the matter is taken up for further hearing today, after few adjournments in between.

4. The learned Central Government Standing Counsel appearing for the second respondent produced a copy of the record of hearing dated 24.04.2019 recorded by the Commissioner.

5. It is stated at Paragraph No.7 therein, that the Assessee's request along with interim direction of this Court is forwarded to the GST Council/GSTN through the Principal Nodal Officer (Commissioner of CGST, Chennai North) for necessary further action.

6. The learned Central Government Standing Counsel for the second respondent thus, submitted that it is for the petitioner to approach the Pricnipal Nodal Officer (Commissioner of CGST, Chennai North) for pursuing the matter further with satisfactory materials.

7. Since these writ petitions are filed challenging the proceedings, which in effect is against not considering the request of the petitioner to avail the input tax credit on the reason that the time for filing TRAN-1 has lapsed and since it is stated that the said issue is now forwarded to GSTN through the Principal Nodal Officer (Commissioner of CGST, Chennai North)

for necessary further action, it is for the petitioner to approach the said authority and pursue the matter further so as to enable him to pass appropriate orders. Needless to say that the impugned denial is only because of the reason that the time for filing TRAN-1 had lapsed and since that issue is sought to be resolved before GSTN, I find that any of the orders of denial so far passed shall not stand in the way of GSTN to consider the claim of the petitioner and pass orders on merits and in accordance with law.

8. Accordingly, these Writ Petitions are disposed of, only with a direction to the Principal Nodal Officer (Commissioner of CGST, Chennai North) to take appropriate action without loss of further time so as to get the issues resolved by GSTN at the earliest possible time, at any event, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

03.10.2019

Speaking/Non-speaking order
Index: Yes/No
Internet : Yes/No

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To

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   5th Floor, Tower-II, Jeevan Bhati Building
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2. The Commissioner of GST & Central Excise
   GST Policy Section
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K.RAVICHANDRABAABU,J.

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