IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.21337 of 2018

M/s.Ankit Ispat Private Limited
Represented by its authorized Signatory
Mr.Mahavir Prasad
New No.9 (Old No.3)
Gopalapuram 6th Main Street,
Chennai-600 086.

... Petitioner

vs.

1.The GST Council
Represented by its Finance Secretary
5th Floor, Tower-II
Jeevan Building, Janpath Road,
Connaught Place
New Delhi - 110 001.

2.The Goods and Service Tax Network (GSTN)
East Wing, 4th Floor
World Mark, I Aerocity
New Delhi - 110 037.

3.The Commissioner of GST and Central Excise
No.1, Goubert Avenue
Puducherry.

4.The Assistant Commissioner of
GST & Central Excise
GST & Central Excise Division
No.1, Nool Kadal Street,
Karaikal - 609 602.

5.The Government of Puducherry
Represented by its Secretary
Commercial Taxes Department
100 Feet Road, Ellaipillaichavadi
Puducherry - 605 005.

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to allow the petitioner to avail the credit of Rs.36 Lakh (Approx), being the amount of Cenvat Credit carried forward in the return relating to the period ending with the day immediately preceding the date on which the provisions of the new tax regime, the Goods and Service Tax Act, 2017, came into force, as credit on input tax under the new tax regime.

For Petitioner	:	Mr.S.Muthuvenkataraman
For Respondents	:	Mrs.R.Hemalatha Senior Standing Counsel for R3 & R4 Mr.V.Sundareswaran Senior Panel Counsel for R1 & R2 Mr.J.Kumaran Government Advocate (P) for R5

O R D E R

Mrs.R.Hemalatha, learned Senior Standing Counsel takes notice for the respondents 3 & 4. Mr.V.Sundareswaran, learned Senior Panel Counsel takes notice for the respondents 1 & 2. Mr.J.Kumaran, learned Government Advocate (P) takes notice for the fifth respondent. By consent of the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner seeks for mandamus directing the respondents herein to allow the petitioner to avail the credit of Rs.36 Lakh (Approx), being the amount of Cenvat Credit carried forward in the return relating to the period ending with the day immediately preceding the date on which the provisions of the new tax regime, the Goods and Service Tax Act, 2017, came into force, as credit on input tax under the new tax regime.

3. Heard both sides.

4. The petitioner-Company is an Assessee under Range-III, Central Excise Division, Kalaikal. The main grievance of the petitioner is that even though they are entitled to claim transitional credit as per Section 140 of the CGST Act, 2017 r/w Section 140 of the TNGST Act, 2017, such input tax credit fails to appear in the electronic credit, despite the fact that the petitioner duly complied with the requirements for transition of credit on input tax, the un-utilized amount in the return relating to the period ending with the day immediately preceding the date on which GST Act, 2017 came into force. It is contended that the petitioner had duly filled declaration electronically in Form GST TRAN-I on 05.09.2017. Therefore, it is stated that the petitioner vide their communication sent by E-mail dated 26.01.2018, informing the respondents that due credit which ought to have been forwarded from the old tax regime to GST had not materialised. As the said request has not been considered, the petitioner has chosen to file the present writ petition.

5. It is not in dispute that a circular has already been issued on 03.04.2018 by the Central Board of Indirect Taxes,

by setting up a Grievance Redressal Mechanism to address certain grievance of the Assesses, which contemplates the appointment of a Nodal Officer to address the problem faced by the tax payers in the GST portal during the transitional period. Therefore, when such Grievance Redressal Mechanism has already been formed by the Central Board of Indirect Taxes and consequently, a Nodal Officer is also appointed by the State Government, it is for the petitioner/Assessee, to submit their application ventilating their grievance in accordance with the said circular, before the concerned Nodal Officer.

6. Accordingly, this writ petition is disposed of, without expressing any view on the merits of the matter, only with the following directions:

(a) The petitioner shall submit their application in accordance with the circular dated 03.04.2018 to the respective Assessing Officer/Jurisdictional Officer/GST Officer, within a period of two weeks from the date of receipt of a copy of this order

(b) On receipt of such application, the Assessing Officer/Jurisdictional Officer/GST Officer is directed to forward the application to the respective Nodal Officer within a period of one week.

(c) The Nodal Officer in consultation with the GSTN shall take note of the grievances expressed by the petitioner/Assessee and forward the same to the Grievance Committee, which in turn would take an appropriate decision in the matter as expeditiously as possible, in any event, within a period of six weeks thereafter.

No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mk

To

1.The GST Council
Finance Secretary
5th Floor, Tower-II
Jeevan Building, Janpath Road,
Connaught Place
New Delhi - 110 001.

2.The Goods and Service Tax Network (GSTN)
East Wing, 4th Floor
World Mark, I Aerocity
New Delhi - 110 037.

3.The Commissioner of GST and Central Excise
No.1, Goubert Avenue
Puducherry.

4.The Assistant Commissioner of
GST & Central Excise
GST & Central Excise Division
No.1, Nool Kadal Street,
Karaikal - 609 602.

5.The Government of Puducherry
Represented by its Secretary
Commercial Taxes Department
100 Feet Road, Ellaipillaichavadi
Puducherry - 605 005.

+1cc to Mr.Muthuvenkataraman, Advocate SR.NO.57385
+1cc to Mr.R.Hemalatha Advocate SR.NO.57384
+1cc to Government Pleader Puducherry, SR.NO.57288
+1cc to Mr.V.Sundareswaran, Advocate SR.NO.57187

PP(CO)
sm:7.9.2018

W.P.No.21337 of 2018