

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.21321 to 21323 of 2018

MSR Iron and Steel Industries India Private Limited
Rep. by its Manager S.Saravanan
234 & 235, Thiruvengadaswamy Road,
R.S.Puram, Coimbatore-641 002.

... Petitioner
(in WP. No.21321 of 2018)

Balu Iron and Steels Company
Rep. by its Manager, S.Saravanan
No.6, Flat No.204, Carnivel Grown Apartment
Barathi Nagar, Ganapathy
Coimbatore - 641 006.

... Petitioner
(in WP. No.21322 of 2018)

M/s.Ramesh Iron and Steel Company
India Private Limited
Rep. by its Manager S.Saravanan
234 & 235 TVL Swamy Road,
R.S.Puram, Coimbatore - 641 002.

... Petitioner
(in WP. No.21323 of 2018)

vs.

1.The Joint Commissioner of Sales taxes
Coimbatore Division
Coimbatore.

2.The Commissioner of GST and Central Excise
GST Bhavan
6/7, A.T.D. Street, Race Course Road,
Coimbatore - 641 018.

3.Goods and Service Tax Network (GSTN)
East Wing, 4th Floor, Ward Mark-1,
Acrocity, New Delhi 100 037
Having Office at GSTN
GST Bhavan, 6/7/ATD Street
Race Course Road,
Coimbatore - 641 018.

4. Goods and Service Tax Council (GST Council)
Through Secretary
5th Floor, Tower II
Jeevan Bharti Building
Janpath Road, Connaught Place
New Delhi 110 001.

5. The Union of India
Rep. by its Secretary
Ministry of Finance
Department of Revenue
North Block, New Delhi - 110 001.

6. The Government of Tamil Nadu
Represented by its Secretary
State Tax Department
Fort St. George
Chennai-600 009.

... Respondents

(in WP. Nos. 21321 to 21323 of 2018)

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent to take action, including re-opening the common portal and extending the time period for filing the declaration in FORM GST TRAN-1, so as to enable the petitioners to submit the FORM GST-TRAN 1 in Column No.7(a) or electronically or manually by correcting the error of filing in Column 7(d) and accept the same as being in compliance with the provisions of Section 140 of the Central Goods and Services Tax Act 2017 / Section 140 of the Tamil Nadu Goods and Services Tax Act 2017 read with Rule 117 of the Central Goods and Services Tax Rules 2017 / Rule 117 of the Tamil Nadu Goods and Services Tax Rules 2017.

For Petitioner सत्यमेव जयते : Mr.K.R.Krishnan
(in WP. Nos. 21321 to 21323 of 2018)

For Respondents : Mrs.G.Dhana Madhri
Government Advocate (Tax)
For R1 & R6
Mr.S.R.Sundar
standing counsel, for R2
Mr.V.Sundareswaran,
Senior Panel Counsel,
for R3, R4 and R5
(in WP. Nos. 21321 to 21323 of 2018)

C O M M O N O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondents 1 and 6. Mr.S.R.Sundar, learned standing counsel takes notice for the second respondent. Mr.V.Sundareswaran, learned Senior Panel Counsel takes notice for the respondents 3, 4 and 5. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

2. All these writ petitions are filed by individual writ petitioners seeking mandamus directing the 2nd respondent to take action, including re-opening the common portal and extending the time period for filing the declaration in FORM GST TRAN-1, so as to enable the petitioners to submit the FORM GST-TRAN 1 in Column No.7(a) or electronically or manually by correcting the error of filing in Column 7(d) and accept the same as being in compliance with the provisions of Section 140 of the Central Goods and Services Tax Act 2017 / Section 140 of the Tamil Nadu Goods and Services Tax Act 2017 read with Rule 117 of the Central Goods and Services Tax Rules 2017 / Rule 117 of the Tamil Nadu Goods and Services Tax Rules 2017.

3. Heard both sides.

4. The main grievance in all these writ petitions is that the respective writ petitioner is not in a position to take excise duty credit in the stock of goods on the appointment of GST (as on 30.06.2017) in view of certain lack of clarity in the new transition provisions under the GST Act. It is not in dispute that a circular has been already 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 due to the problem faced by such people in the GST portal during the transitional period. It is also not in dispute that the Government of Tamil Nadu vide proceeding dated 18.05.2018 already nominated a State Level Nodal Officer to address the problem faced by the tax payers. 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 petitioners/Assessees, to submit their applications in accordance with the said circular before the concerned Nodal Officer.

5. Accordingly, all these writ petitions are disposed of, without expressing any view on the merits of the matter, only with the following directions:

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

(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 petitioners/Assesseees 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 IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Joint Commissioner of Sales taxes
Coimbatore Division, Coimbatore.
- 2.The Commissioner of GST and Central Excise
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4.The Secretary,
Goods and Service Tax Council (GST Council)
5th Floor, Tower II
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New Delhi 110 001.

5.The Secretary
The Union of India,
Ministry of Finance, Department of Revenue
North Block, New Delhi - 110 001.

6.The Secretary
The Government of Tamil Nadu
State Tax Department
Fort St.George, Chennai-600 009.

+3cc to Mr.S.R.Sundar, Advocate, S.R.No.57333, 57334,57332

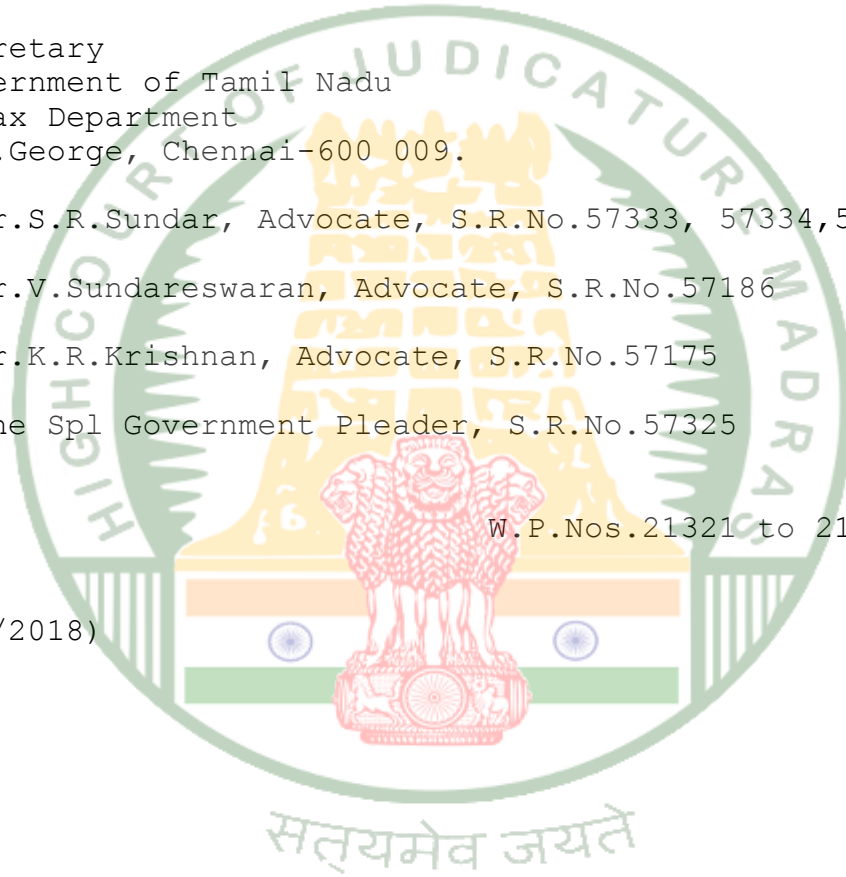
+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.57186

+1cc to Mr.K.R.Krishnan, Advocate, S.R.No.57175

+1cc to the Spl Government Pleader, S.R.No.57325

W.P.Nos.21321 to 21323 of 2018

RSY (CO)
GSP (27/08/2018)



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