

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.1551 of 2018
Decided on: 20.11.2019

Macleods Pharmaceuticals Ltd. ...Petitioner

Versus

Union of India & othersRespondents

Coram

The Hon'ble Mr. Justice L. Narayana Swamy, Chief Justice

The Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge

Whether approved for reporting?

For the petitioner: Mr.Vivek Attri, Advocate.

For the respondents: Mr.Rajiv Jiwan, Senior Advocate, with
Mr.Ajit Sharma, Advocate, for respondents
No.1 to 4.

Mr.Ajay Vaidya, Senior Additional Advocate
General, with Mr.Adarsh K. Sharma,
Mr.Ashwani Sharma and Ms.Ritta Goswami,
Additional Advocates General, for
respondent No.5 to 7.

Mr.Paras Dhaulta, Advocate vice Mr.Sunil
Mohan Goel, Advocate, for respondent
No.8.

L. Narayana Swamy, Chief Justice (Oral)

The petitioner-Company was constituted and registered under the Companies Act, 1956 on 15.6.1989. In the month of June 2017, the petitioner-company had CENVAT Credit balance of Central Taxes amounting to Rs.7,51,33,423/-. It is further stated that the petitioner-company has also filed another TRAN-1 form for CENVAT Credit of Rs.14,71,031/-, which was

made admissible and credited to its Electronic Credit Ledger account on 26.10.2017.

2. Learned counsel for the petitioner submits that in view of introduction of new Goods and Services Tax Act (for short, "the GST Act), the petitioner Company could not amend TRAN-1 form as per the amended provisions of the GST Act. Hence, the writ petition has been filed seeking direction to the respondents to consider the case of the petitioner-Company for amendment of TRAN-1 form.

3. Learned counsel for the petitioner has relied upon the judgment of Punjab and Haryana High Court in CWP No.30949 of 2018 (O&M), titled as **Adfert Technologies Pvt. Ltd. vs. Union of Inida & Ors.**, wherein the Punjab and Haryana High Court had directed the respondents to permit the petitioners to file or revise where already incorrect TRAN-1 either electronically or manually statutory Form(s) TRAN-1 on or before 30.11.2019. He submits that since the instant case is also similar to the case referred to above, therefore he seeks a direction to the respondents to consider the case of the petitioner for amendment of TRAN-1 form and pass appropriate directions in a time bound manner.

4. Mr.Rajiv Jiwan, learned Senior Counsel appearing for respondents No.1 to 4 has placed on record communication

dated 9th May, 2019, and submits that the consideration of TRAN-1 form of the petitioner-company is under process and the same will be considered as per the provisions of amended GST Act.

The relevant portion of the said communication reads as under:-

“From the above facts and evidences on record, it appears that the party had filed the Tran-I form on 27.11.2017 for carrying forward the balance of cenvat credit of Rs.7,51,33,423/- shown in the last return. There is no dispute to the fact that this amount of balance cenvat credit is being reflected in the Tran-I form. However, the party was also required to declare this balance cenvat credit which was admissible as ITC in the field “CENVAT credit admissible as ITC” in Tran-1 form. As per information given by the GSTN the party has field “0” in the above mentioned field and therefore, Rs.7,51,33,423/- was not posted to their electronic credit ledge. The explanation given by the party that the person filing the Tran-I assumed that the field “CENVAT” credit admissible as ITC” would be auto populated, appears to be plausible as at that time, GST was new and the GSTN was in the nascent stages and the taxpayers were to well conversant with the new system. Thus, it appears that there has been a bonafide mistake on the part of the party in non filing of ITC amount in the given field. Therefore, it is not a mistake like wrong entry of an amount but it is a case of non entry in the relevant field which appears to be an error apparent on the face of the record. The request of the party appears to be genuine and may be considered favourably. The same is being forwarded in terms of CBIC circular no.39/13/2018-GST dated

03.04.2018 read with Office Memorandum dated 28.03.2019 issued by the Joint Secretary, GST Council, New Delhi for necessary action. Copies of all the relevant documents and Table A and B as per Standard Operating Procedures, duly filled, are attached herewith.”

5. In the light of the judgment and the communication referred to above, the writ petition is disposed of with a direction to the respondents to consider the case of the petitioner-Company for amendment of TRAN-1 form and pass appropriate orders within a period of three weeks from today.

6. Pending application(s), if any, also stands disposed of.

(L. Narayana Swamy),
Chief Justice

(Jyotsna Rewal Dua),
Judge

November 20, 2019

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