

**IN THE HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR**

**WP (C) No. 3050/2019
CM No. 6116/2019**

HK Auto World Private Limited.

.....Petitioner(s)

Through: - Mr J.A. Kawoosa, Advocate.

v/s

Union of India & Ors.

.....Respondent(s)

Through: - Mr T.M. Shamsi, ASGL.

CORAM:

**Hon'ble Mr Justice Ali Mohammad Magrey, Judge.
Hon'ble Mr Justice Dhiraj Singh Thakur, Judge.**

JUDGMENT (ORAL)

Magrey: J:

01. In the instant petition, the petitioner has prayed for the following reliefs:

- i. *to allow this writ petition by issuing a writ of mandamus directing the Respondent No. 2 to extend the time for filling GST TRAN-1 for the further period of two weeks or accept the GST TRAN manually.*
- ii. *Any other Writ, order or direction which this court may deem fit and proper also be issued in favour of the Petitioner and against the Respondents.*

02. On consideration of the matter, this Court in terms of order dated 22.10.2019, while issuing notice to the respondents which was waived by Mr. T.M. Shamsi, learned ASGI, had observed that the Court is inclined to pass a similar order as has been passed in OWP No. 913/2018 by virtue of which the writ petition filed on the identical facts had been allowed, however, Mr T.M. Shamsi, learned ASGI, prayed for short adjournment in order to enable him to get instructions in the matter and accordingly, the matter was posted for 25.10.2019. The order being relevant is taken note of:

“Issue notice to show cause as to why writ petition be not admitted to hearing.

Mr. T. M. Shamsi, learned ASGI accepts notice on behalf of the respondents.

Our attention is drawn to the order dated 11th May, 2018 passed in OWP No. 913/2018 (at page 32 of the paper book), whereby on identical facts, the writ petition has been allowed. We are inclined to pass the similar order. However, Mr. T. M. Shamsi, learned ASGI prays for short adjournment to take instructions in the matter.

On his request, list this matter on 25th October, 2019.”

03. On 25.10.2019, Mr T.M. Shamsi, learned ASGI, sought further time for the purpose and the matter was posted for 05.11.2019. On 22.11.2019 and 04.12.2019, the matter could not be taken up due to paucity of time and was accordingly posted for 18.12.2019.

04. Today when the matter came up for consideration, Mr J.A. Kawoosa, learned counsel for the petitioner while strengthening his claim for the reliefs prayed hereinabove, has referred to the decision rendered by the Division

Bench of this Court in case titled *Vardhman Extrusions Pvt Ltd vs Union of India & Anr bearing OWP No. 913/2018 decided on 11.05.2018*, whereby, the Court, taking cue from the decisions rendered by the Bombay High Court as well as Allahabad High Court and Rajasthan High Court on the similar issue, had directed the respondents to reopen the portal within a period of two weeks and in case the petitioner fills in the form in question, the respondents shall also entertain the application of the petitioner manually and it was further observed that the respondents shall also ensure that the petitioner is allowed to pay the tax.

05. Despite availing sufficient opportunities, Mr T.M. Shamsi, learned ASGI, did not report the requisite instructions in terms of the orders supra, therefore, the matter was heard and considered in absence of such instructions, however, Mr T.M. Shamsi, learned ASGI, resisted the claim of the petitioner and submitted that the petitioner cannot be given the concession of filing up the form in question as he has failed to avail the facility of filing such form on-line.

06. We have heard the learned counsel for the parties, perused the record and considered the matter.

07. We are of the considered view that the matter has extensively been dealt with by this Court in the case titled *Vardhman Extrusions Pvt Ltd vs Union of India & Anr bearing OWP No. 913/2018 decided on 11.05.2018* and there is absolutely no reason available with us to take a different view.

08. In view of above, this petition is allowed and the respondents are directed to reopen the portal within a period of two weeks and in case the petitioner fills in the form in question, the respondents shall also entertain the application of the petitioner manually and it was further observed that the respondents shall also ensure that the petitioner is allowed to pay the tax

09. With the aforesaid directions, the writ petition alongwith connected CM shall stand disposed of accordingly.

(Dhiraj Singh Thakur)
Judge

(Ali Mohammad Magrey)
Judge

SRINAGAR
December 18th, 2019.

"Hamid"

