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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3572/2020 and CM APPL. 12707/2020

MANGLA HOIST P. LTD. Petitioner

Through: Mr.Ruchir Bhatia, Advocate.

versus

UNION OF INDIA AND ORS Respondents

Through: Mr.Asheesh Jain, CGSC with
Mr.Adarsh Kumar Gupta, Advocate
for R1.
Mr.Kuldeep Singh, Advocate for R2.
Mr.Harpreet Singh, Senior Standing
Counsel for GST/R3.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **17.06.2020**

HEARD THROUGH VIDEO CONFERENCING.

1. The petitioner seeks directions to the respondents/Union of India; Commissioner, CGST, Delhi South; Superintendent of Range and Goods and Services Tax Council to open the Portal to enable it to file its claim of CENVAT tax credit as on 30th June, 2017, in Form Trans-1. The second relief in the present petition is for declaring Rule 117 of the CGST Rules, 2017 as *ultra vires* and quashing the same.
2. Mr. Bhatia, learned counsel for the petitioner states that despite repeated efforts made by the petitioner to upload its claim for credit in Form

GST Trans-1 on the portal of the respondents, it could not do so due to errors in their system including technical difficulties faced in uploading credit Form GST Trans-1. He submits that despite repeated requests made to the respondents by several parties to extend the last date for filing the claim of credit input in Form GST Trans-1, they have refused to extend the deadline.

3. Recently, a Division Bench of this Court in **W.P.(C) 11040/2018** entitled Brand Equity Treaties Limited vs. Union of India has held on 05.05.2020, that the time limit of 90 days prescribed in Rule 117 of the CGST Rules is not mandatory but directory in nature. Further, the respondents have been directed to publicise the said judgment including by uploading it on their website so that all the Assessees, who were unable to upload Form/GST Trans-1, could do so on or before 30th June, 2020.

4. Learned counsel for the petitioner states that despite the aforesaid categorical order passed by the co-ordinate bench, the respondents have not made compliances and the petitioner has been compelled to approach this court for seeking directions to the respondents to open the common portal to enable it to upload its claim in Form GST Trans-1 well before 30.06.2020.

5. Issue Notice.

6. Mr.Kuldeep Singh, learned counsel for the respondents enters appearance and starts by stating that the petitioner has erroneously impleaded the Commissioner, Central Goods and Service Tax, Delhi South as the respondent No.2 whereas the petitioner falls under the jurisdiction of the Commissioner, Central Goods and Service Tax Delhi East. He further states that the respondents have decided to challenge the judgment in Brand

Equity Treaties Limited (supra) and are in the process of filing an appeal before the Supreme Court.

7. Admittedly, the judgment in Brand Equity Treaties Limited (supra), has not been stayed so far and therefore, the respondents are under an obligation to abide by the directions issued therein by adequately publicising the said decision and uploading it on their website as also by opening its common portal to enable the petitioner and all similarly placed parties to upload Form GST Trans-1, for claiming CENVAT tax credit. The respondents are directed to ensure compliance of the captioned judgment by 19.06.2020, particularly since the cut of date fixed by the court in the said case is 30th June, 2020, which would leave only ten clear days for the petitioner and similarly placed assesseees to take necessary steps.

8. The present petition is disposed of along with the pending application with the aforesaid directions. No orders as to costs.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JUNE 17, 2020

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