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

+ W.P.(C) 9575/2017

SALES TAX BAR ASSOCIATION (REGD,) & ANR..... Petitioner

Through: Mr. Puneet Agrawal, Mr. Sanjay Sharma, Mr. Ashok Sharma, Mr. Yuvraj Singh, Mr. H.C. Bhatia, Mr. Kumarji Bhatt, Mr. Saket Grover, Ms. Neetika Khanna, Mr. Suresh Agarwal, Mr. Naveen Kumar Upadhayay, Mr. Rakesh Kumar, Mr. Raj K. Batra and Mr. Rakesh Kr. Aggarwal, Advs.

Versus

UNION OF INDIA & ORS.

..... Respondent

Through: Mr. Harpreet Singh, Sr. Standing counsel for GST.  
Ms. Nidhi Mohan Parashar and Mr. Neeraj Sharma, Advs. for R-4.  
Mr. Satyakam, ASC, GNCTD.  
Mr. Anurag Ahluwalia, CGSC with Mr. Shaurya Jain, Advs. for UOI.

**CORAM:**

**HON'BLE MR. JUSTICE VIPIN SANGHI**

**HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER**

**23.01.2020**

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1. We have heard learned counsels at some length.
2. During the course of the arguments, learned counsel for the petitioner has raised few issues which we propose to deal today.
3. Mr. Agrawal, learned counsel for the petitioner has pointed that this

Court, in its order dated 18.09.2019, had directed the respondents to publish the e-mail Ids and telephone numbers of the Nodal Officers widely, including on the GST Website; Delhi GST Website and CBIC Website. He points out that though the said information has been made available, but it has been placed in the “news and updates” section. The result is that the notification of the particulars of the nodal officers moves into archive and is not visible on the current page of the “news and updates” section. We direct that the e-mail Ids and telephone numbers of the Nodal Officers should be provided on the Home Page, by providing an appropriate prominent link, with appropriate heading.

4. Mr. Agrawal has submitted that the date of filing of the annual return in respect of the financial year 2017-18 was initially stipulated under the Act as 31.12.2018. The same was extended from time to time, and is now extended till 31.01.2020. He submits that attempts to upload the annual returns for the year 2017-18 on the portal have been unsuccessful. In this regard, he has tendered in Court the screenshots in relation to several attempts made by different assesseees. Copies have been supplied to counsel for the respondents. From the same, it appears that the GST Network displays a window stating “*There seems to be an inadvertent problem while communicating with GST System. This may be on account of one of the following:.....*”

5. He submits that in respect of the assesseees whose annual returns for the financial year 2017-18 are not filed by 31.01.2020, adverse consequences will follow, for no fault of theirs.

6. On the other hand, learned counsel for the respondents, including the counsel for the GSTN states that they have no definite instructions in this

regard. However, over two lakh annual returns have been filed in respect of the financial year 2017-18. It appears from the registrations granted by the respondents, that there should be in excess of 11 lakh returns filed. The respondents are directed to keep a vigil to ensure that the annual returns in GSTR 9C Form, which are filed by the assesseees for the financial year 2017-18 get uploaded, and the uploading is not unsuccessful for any shortcoming of the respondents.

7. Learned counsel for the petitioner also submits that in respect of the financial year 2018-19, the GSTR 9, GSTR 9A and GSTR 9C Form have still not been uploaded and, consequently, even though the last date of filing of the same was 31.12.2019, the assesseees have not been able to upload the Form. The date of filing of the same now stands extended till 31.03.2020.

8. We fail to appreciate as to why the respondents should not make Forms available and operationalise them well in advance, so that the assesseees are able to file their returns in Form GSTR 9, GSTR 9A and GSTR 9C promptly, at the earliest. Financial year, in respect of each year, ends on 31<sup>st</sup> March and it should be possible for the assesseees to upload their Forms soon thereafter. They should not have to wait for filing of the returns in the prescribed forms till the last date. In the present case, it appears that the respondents have been revising the Forms and in respect of the financial year 2018-19, the requisite forms have not yet been operationalised. Therefore, even those assesseees, who could have, and may have attempted to upload their annual returns in the prescribed Forms for the financial year 2018-19, have been prevented from doing so. This situation is completely unsatisfactory.

9. Learned counsel for the respondents have sought to justify the non-

operationalisation of the requisite return form for the financial year 2018-19, on the ground that they have extended the last date for filing of the Annual Return for the financial year 2017-18 up to 31.01.2020, and so as to prevent confusion in the mind of the assesseees, they would operationalise forms for the financial year 2018-19 from 01.02.2020. We are not satisfied with this explanation, since it should be possible to upload the returns for both the years 2017-18 and 2018-19 simultaneously.

10. The grievances raised by the petitioner are numerous. Several of them have been raised and resolved, while several others remain unresolved. Lot of the issues arising before us relate to the apparent technical flaws, glitches and limitations in the online portal system evolved by GSTN. On our query, we are informed that Infosys Limited and Tech Mahindra Limited have been entrusted the task of evolving and maintaining the GSTN Network for IT support. With a view to better appreciate the intricacies, and to ensure that the grievances raised by the taxpayers – whose interest the petitioner association represents and our orders are understood and implemented in true perspective, we consider it necessary to have Infosys Limited and Tech Mahindra Limited present before us, to receive their assistance, as and when required.

11. We, therefore, direct issuance of Court notice to Infosys Limited and Tech Mahindra Limited in the aforesaid context.

12. Let court notice issue to them returnable on 20.02.2020.

13. The court notice shall be served through the counsel for the GSTN.

14. On the next date, the respondents shall produce deliberations of the GST Policy wing, and the recommendations of the Council in terms of paragraph 3 of our order dated 31.10.2019.

15. Further status report in respect of compliance of our earlier order be also filed by the respondents before the next date of hearing.

16. Dasti.

**VIPIN SANGHI, J**

**SANJEEV NARULA, J**

**JANUARY 23, 2020/N.Khanna**