

\$~7

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

+ W.P.(C) 1280/2018

**BHARGAVA MOTORS** ..... Petitioner

Through: Mr.Vineet Bhatia, Advocate

versus

**UNION OF INDIA & ORS.** ..... Respondents

Through: Mr.Dev P. Bhardwaj, CGSC for R-1  
Ms. Vibhooti Malhotra, Advocate for  
R-3/GST Council  
Mr.Manikya Khanna, Mr.Umang  
Kumar Singh & Mr.Pratyaksh  
Sharma, Advocates for R-4/GST  
Network

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

% **07.01.2019**

1. The petitioner's grievance is that the credit it claimed in TRAN-I Form, uploaded on 27.12.2017, pursuant to the mandate of the law [Section 140(3) of the Central Goods and Service Tax Act, 2017] did not result in reflection of appropriate credits available to it [which it claims to be to the tune of ₹74,96,069/- and ₹10.5 lakhs approximately], but rather that the electronic ledger reflected no figure at all, as credit available to it.

2. The affidavit filed on behalf of the respondent No.4/GST Network, which manages/administers electronic portal *inter alia* states as follows:

*“19.1 state that the non-availability of the CGST credit is not due to non-filing of the FORM GST TRAN-1. In this regard, it is reiterated that the Petitioner filed the FORM GST TRAN-1 but all the ITC fields were zero. It is denied that this is not due to the fault of the Petitioner.”*

3. The affidavit has also relied upon the minutes of the second meeting of the IT Grievance Redressal Committee, held on 21.08.2018, in New Delhi. It is submitted on behalf of respondent No.4 that the rationale for rejecting the petitioner’s claim was that there was no technical defect or glitch and consequently, the figures provided did not entitle it for the reflection of any credit in the electronic ledger. The relevant parts of that meeting relied upon [para 3.2 (e)] reads as follows:

*“3.2 EVP, GSTN further elaborated the cases under the Category 'B', where no technical issues were found on the basis of logs in GST system, as below:*

xxxx                      xxxx                      xxxx

*e) In total 13 cases, taxpayers had filed TRAN-I twice but no credit had been received in their ledgers. No technical or system issues were evident from the logs, and the posting in ledgers was what was filled by taxpayers. These included 6 cases sent by Nodal officers and 7 cases pertaining to WPs.*

xxxx                      xxxx                      xxxx”

4. The petitioner points out that the intimation of its having successfully uploaded the TRAN-I Form, was received and its screenshot has been produced as Annexure-P1. That document *inter alia* clearly states *“Your form has been successfully filed with ARN No.AA0712170364031”*.

5. Given these circumstances and the fact that the petitioner has asserted that substantial credit was available to it on the transactions which it conducted prior to 30.03.2017, for which the law entitled it to credit, it appears to the Court that the authorities have so far not looked into the merits of the claim for input credit but rather rejected his entire entitlement itself on the ground that the credit reflected in the electronic ledger does not show any figure. The conundrum which the Court is presented with here is that if the petitioner were to obtain a screenshot of the figures it had filled just before it actually uploaded TRAN-I, the Revenue would have then contended that those figures were inchoate as the document would not have been final and was merely at the stage of preparation. It also appears to the Court that after the electronic form is filled, no provision for its “review” was made available to the assessee before uploading it. The lack of this facility has complicated the issue, because if such facility or provision would be made available, the individual assessee could have obtained screenshots just before uploading the form. The other method by which this issue could have been resolved was that the automatically generated response could have itself indicated the figures. That, however, does not appear to be the case.

6. In these circumstances, the Court is of the opinion that the respondents should disclose as to what was actually filled in the TRAN-I Form [whether for the first time or the second time when it was uploaded], by the petitioner in this case and the basis of its assertion that no credit was available to it, having regard to the fact that the petitioner claims credit on the basis of real transactions in real goods.

7. The concerned respondents, i.e. GST Council and the respondent No.4 shall file affidavits before the Court within two weeks. The respondent No.4 shall also make available to the Court the necessary files relating to this case.

8. List on 13<sup>th</sup> March, 2019.

**S. RAVINDRA BHAT, J**

**PRATEEK JALAN, J**

**JANUARY 07, 2019**

*'hkaur'*