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

\+ W.P.(C) 3109/2019, C.M. Appl. No. 14271/2019

COMNET VISION (INDIA) PVT.LTD ..... Petitioner

Through: Mr. Tushar Thareja, Advocate

versus

THE COMMISSIONER DEPARTMENT OF TRADE AND TAXES ..... Respondent

Through: Mr. Harpreet Singh, Senior Standing Counsel for respondent No. 2 (GST Council)

**CORAM:**
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**
**HON'BLE MR. JUSTICE PRATEEK JALAN**

**O R D E R**

**% 28.03.2019**

At the very outset, counsel appearing for the petition seeks to implead GST Council, through its Chairman as respondent No. 2 to the present petition. Allowed and the GST Council through its Chairman is impleaded as respondent No. 2.

Mr. Harpreet Singh, Senior Standing counsel appears on behalf of the respondent and accepts notice on behalf of the GST Council.

We have heard counsel for both sides.

The petitioner is aggrieved by the lack of response and technical difficulties faced by it on account of certain limitations in the GST Forms which it has to upload digitally. It is contended that pursuant to Notification dated 10.09.2018 (No.48/2018) issued by the

GST Council, such entities and individuals facing difficulties on account of "technical difficulties" in uploading the relevant data and information in the concerned forms on the website can do so within the extended time i.e. till 31.03.2019. This position is not disputed by the Revenue, which is represented by Shri Harpreet Singh. It is contended that since the petitioner's grievance concerns the State GST Forms, and in the absence of the GST Council, the court should not issue any blanket directions.

Petitioner cites the decision of the Allahabad High Court of *M/s Earthcon Constructions Pvt. Ltd. vs. Union of India and others* (Writ Tax No.936/2018 decided on 06.07.2018). The court had then directed as follows:

> *"The petitioner has alleged in the petition that despite making several efforts on the last date of filing of the application, the electronic system of the respondent No.2 did not respond, as a result of which the petitioner is likely to suffer loss of the credit that it is entitled to by passage of time.*
>
> *The respondents have been served with a notice of this writ petition two days ago and they have instructions to state that some new committee is likely to be formed, which will take care of the individual cases probably within next two weeks but are unable to give any exact date.*
>
> *Learned counsel for the respondents prays for and is allowed one month's time to file a counter affidavit.*
>
> *List this matter on 08.08.2018.*
>
> *In the meantime, the respondents are directed to reopen the portal within two weeks from today. In the event they did not do so, they will entertain the application of the petitioner manually and pass orders on it after due*

> *verification of the credits as claimed by the petitioner. They will also ensure that the petitioner is allowed to pay its taxes on the regular electronic system also which is being maintained for use of the credit likely to be considered for the petitioner."*

Since the time for filing the relevant form is likely to expire on 31.03.2019, the court is of the opinion that the concerned officials of the GST Council shall enable the petitioner to fill the form online. In case it is not possible to do so within the time prescribed i.e. by 31.03.2019, the respondents are hereby directed to entertain the concerned Forms under Rule 97A, manually and process it in accordance with law.

The writ petition is disposed of in the above terms.

A copy of this order be given dasti under signatures of the Court Master.

**S. RAVINDRA BHAT, J**

**PRATEEK JALAN, J**

**MARCH 28, 2019**
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