

**Court No. - 35**

**Case :-** WRIT TAX No. - 409 of 2019

**Petitioner :-** M/S Kher Diesels

**Respondent :-** Union Of India And 6 Others

**Counsel for Petitioner :-** Nishant Mishra,

**Counsel for Respondent :-** A.S.G.I., Ramesh Chandra Shukla ,  
C.S.C.

**Hon'ble Bharati Sapru,J.**

**Hon'ble Piyush Agrawal,J.**

Heard Sri Nishant Mishra, learned counsel for the petitioner, Sri Shamim Ahmad, learned Counsel for the respondents no.1,2 & 5, Sri R.C. Shukla, learned Counsel for the respondents no.3 & 4 learned Standing Counsel appears for the respondent no.6 & 7.

The petitioner seeks a writ of mandamus directing the GST council respondent no.2 to make recommendations to the Commissioner to extend the time period for filing of GST Tran-1 in the case of the petitioner because his application was not entertained on the last date i.e. 04.10.2018 and he is permitted to file his complete GST ITC-01 for the necessary transactional credit as per amended Rule 117 (1A).

The petitioner has alleged in the petition that despite making several efforts on the last date for 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.

In view of the above, the respondents are directed to open the portal before 31st of March 2019. In the event they do not do so, they will entertain the GST ITC-01 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.

Learned Counsel for the respondents may file a counter affidavit within a month.

List this matter on 06.05.2019.

**Order Date :-** 30.3.2019

S.P.