

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY ,THE 12TH DAY OF FEBRUARY 2019 / 23RD MAGHA, 1940

WP(C).No. 41337 of 2018

PETITIONER/S:

M/S.MALIKA VEETIL AGENCIES
PUNALUR, REPRESENTED BY ITS PROPRIETOR SRI. P. ABDUL
SALAM.

BY ADVS.
SRI.AJI V.DEV
SRI.H.ABDUL LATHIEF

RESPONDENT/S:

- 1 THE STATE TAX OFFICER
SGST DEPARTMENT, PUNALUR-691 675
- 2 THE NODAL OFFICER FOR STATE GST
STATE GOODS AND SERVICE TAXES, TAX TOWER, KILLIPPALAM,
KARAMANA P.O, THIRUVANANTHAPURAM-695 002
- 3 THE NODAL OFFICER/DEPUTY COMMISSIONER
CENTRAL GST AND CENTRAL EXCISE, C.R. BUILDING, I.S. PRESS
ROAD, KOCHI-18
- 4 THE COMMISSIONER OF STATE TAX
STATE GOODS AND SERVICE TAXES, TAX TOWER, KILLIPPALAM,
KARAMANA P.O, THIRUVANANTHAPURAM-695 002
- 5 UNION OF INDIA
THROUGH ITS SECRETARY (REVENUE), MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, GOVERNMENT OF INDIA, NORTH
BLOCK, NEW DELHI-110 001

BY ADV. SRI.P.R.SREEJITH,SC,GOODS AND SERVICES TAX
NETWORK

OTHER PRESENT:

CGC SMT. C.G. PREETHA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12.02.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

The petitioner, a registered dealer under the Kerala Value Added Tax Act and Central Excise Act, has now migrated to the Goods and Services Tax regime. To use the input tax available to its credit at the time of migration, the petitioner had to upload FORM GST TRAN-1 within the stipulated time. The petitioner asserts that though it attempted to upload the form within the time, it failed because of some system error. The petitioner, therefore, seeks directions for taking credit of the available input tax.

2. Heard the learned counsel for the petitioner, the learned Government Pleader, as well as the learned Standing Counsel, besides perusing the record.

3. The Government of India has issued Circular No.39/13/2018-GST, dated 03.04.2018, for “setting up an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on GST Portal.” Paragraph 5 of the circular outlines the procedure the Nodal Officers is to follow. It reads:

5. Nodal officers and identification of issues

5.1 GSTN, Central and State government would appoint nodal officers in requisite number to address the problem a taxpayer faces due to glitches, if any, in the Common Portal. This would be publicized adequately.

5.2 Taxpayers shall make an application to the field officers or the nodal officers where there was a demonstrable glitch on the Common Portal in relation to an identified issue, due to which the due process as envisaged in law could not be completed on the Common Portal.

5.3 Such an application shall enclose evidences as may be needed for an identified issue to establish bona fide attempt on the part of the taxpayer to comply with the due process of law

5.4 These applications shall be collated by the nodal officer and forwarded to GSTN who would on receipt of application examine the same. GSTN shall after verifying its electronic records and the applications received, identify the issue involved where a large section of tax payers are affected. GSTN shall forward the same to the IT Grievance Redressal Committee with suggested solutions for resolution of the problem.

(italics supplied)

4. Not only the petitioner but also many other people faced this technical glitch and approached this Court. Both the learned counsel submit that this Court on earlier occasions permitted the petitioner to apply to the Nodal Officer concerned to have the issue resolved.

5. So, here too, the petitioner may apply to the Nodal Officer, the second respondent. The petitioner applying, the Nodal Officer will look into the issue and facilitate the petitioner's uploading FORM GST TRAN-1, without reference to the time-frame. Ordered so.

6. I may also observe that if the petitioner applies within two weeks after receiving this judgment, the Nodal Officer will consider it and take steps within a week thereafter. If the uploading of FORM GST TRAN-1 is not possible for reasons not attributable to the petitioner, the authority will also enable it to take credit of the input tax available at the time of its migration.

With these directions, I dispose of the Writ Petition.

Sd/-

DAMA SESHADRI NAIDU

JUDGE

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APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	A TRUE COPY OF THE REPRESENTATION DATED 07.05.2018 SENT TO THE 1ST RESPONDENT.
EXHIBIT P2	A TRUE COPY OF THE PURCHASE INVOICE DATED 24.6.2017
EXHIBIT P2 A	A TRUE COPY OF THE PURCHASE INVOICE DATED 24.6.2017
EXHIBIT P2 B	A TRUE COPY OF THE CHARTERED ACCOUNTANT'S STOCK TAKE REPORT DATED 01.11.2017
EXHIBIT P3	A TRUE COPY OF THE REPLY DATED 08.05.2018 SENT TO THE PETITIONER BY THE GST HELPDESK.
EXHIBIT P4	A TRUE COPY OF THE NOTICE DATED 11.05.2018

- EXHIBIT P5 A TRUE COPY OF THE REPLY DATED 14.05.2018 FILED BY THE PETITIONER.
- EXHIBIT P6 A TRUE COPY OF THE AFFIDAVIT DATED 03.07.2018
- EXHIBIT P7 A TRUE COPY OF THE APPLICATION DATED 31.10.2018
- EXHIBIT P8 A TRUE COPY OF CIRCULAR NO. 39/13/2018 GST DATED 03.04.2018