

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY ,THE 01ST DAY OF FEBRUARY 2019 / 12TH MAGHA, 1940

WP(C).No. 1961 of 2019

PETITIONER/S:

BIJU M.,PROPRIETOR, PMR ENTERPRISES
20/340, NORTH OF VELLAKKINAR JUNCTION
ALAPPUZHA-688001.

BY ADVS.
SRI.K.I.MAYANKUTTY MATHER
SMT.T.K.SREEKALA
SRI.P.RAHUL
SRI.R.JAIKRISHNA

RESPONDENT/S:

- 1 UNION OF INDIA,
THROUGH ITS SECRETARY (REVENUE), MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, GOVERNMENT OF INDIA, NORTH BLOCK, NEW
DELHI-110001.
- 2 THE PRINCIPAL SECRETARY,
FINANCE (GST WING) FINANCE (REV-1) DEPARTMENT 4TH LEVEL, A-WING,
DELHI SECRETARIAT, I.P.ESTATE, NEW DELHI, 110002.
- 3 GST COUNCIL,
THROUGH ITS CHAIRPERSON, DEPARTMENT OF FINANCE, NORTH BLOCK,
NEW DELHI-110001.
- 4 GOODS AND SERVICES TAX NETWORK,
THROUGH ITS CHAIRMAN, EAST WING, 401 FLOOR, WORLD MARK
-AEROCITY, NEW DELHI-110037.
- 5 STATE TAX OFFICER,GOODS AND SERVICE
TAX DEPARTMENT, FIRST CIRCLE, ALAPPUZHA-688001.
- 6 PRINCIPAL NODAL OFFICER (TECH)/DEPUTY COMMISSIONER,
OFFICE OF THE COMMISSIONER OF CENTRAL TAX AND CENTRAL EXCISE,
CENTRAL REVENUE BUILDING, I.S.PRESS ROAD, KOCHI-682018.

BY ADVS.
SMT.SINDHUMOL.T.P., CGC

SRI.P.R.SREEJITH, SC, CENTRAL BOARD OF EXCISE AND CUSTOMS
SRI.P.R.SREEJITH,SC,GOODS AND SERVICES TAX NETWORK
CGC SRI. P. VIJAYAKUMAR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.02.2019, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, a registered dealer under the Kerala Value Added Tax 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 form within the time, it failed because of some system error. The petitioner, therefore, seeks directions to enable him to take credit of the available input tax.

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

3. There is a circular issued by the Government of India 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 petitioners to apply to the additional sixth respondent for the issue resolution.

5. So, in this case also, the petitioner may apply to the Nodal Officer. 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

APPENDIX

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | TRUE COPY OF THE CERTIFICATE OF REGISTRATION GRANTED TO THE PETITIONER DATED 17.7.2018. |
| EXHIBIT P2 | TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE 6TH RESPONDENT DATED 3.1.2019. |
| EXHIBIT P2 A | TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT ISSUED BY THE 6TH RESPONDENT 14.1.2019. |
| EXHIBIT P3 | TRUE COPY OF THE CIRCULAR NO.39/13/2018-GS DATED 3.4.2018. |
| EXHIBIT P4 | TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP(C)20978/2018 DATED 28.6.2018 |
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