

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY ,THE 04TH DAY OF JANUARY 2019 / 14TH POUSHA, 1940

WP(C).No. 42351 of 2018

PETITIONER:

P.M.ABDUL HAJEE, PROPRIETOR, COASTAL HARDWARES AND
SANITARIES(NOW COASTAL ENTERPRISES) R.S. ROAD
THRISSUR - 680 001.

BY ADVS.
SMT.S.K.DEVI
SRI.SANTHOSH P.ABRAHAM

RESPONDENTS:

- 1 GOODS SERVICE TAX COUNCIL
O/O. THE GST COUNCIL SECRETARIAT, 5TH FLOOR, TOWER II, JEEVAN
BHARATH BUILDING, JANPATH, CONNAUGHT PLACE, NEW DELHI - 11001
REPRESENTED BY THE SECRETARY TO GST COUNCIL.
- 2 THE PRINCIPAL CHIEF COMMISSIONER,CENTRAL GOODS AND SERVICE TAX,
CENTRAL REVENUE BUILDING, ERNAKULAM - 682018.
- 3 THE COMMISSIONER,STATE GOODS AND SERVICE TAX, TAX TOWER,
KARAMANA, THIRUVANANTHAPURAM, PIN - 695 002.
- 4 THE GOODS AND SERVICE TAX NET WORK PVT. LTD.,
GSTIN, EAST WING, WORK MARK-1, 4TH FLOOR, AEROCITY, INDIRA GANDHI
INTERNATIONAL AIR PORT, NEW DELHI - 110037, REPRESENTED BY ITS
MANAGING DIRECTOR.
- 5 THE ASST. COMMISSIONER OF STATE TAX,STATE GOODS AND SERVICE TAX,
(KERALA) SPECIAL CIRCLE, THRISSUR - 680 004.
- 6 THE DEPUTY COMMISSIONER,STATE GOODS AND SERVICE TAX (KERALA),
MATTANCHERY, KOCHI - 682002.

SRI.P.R.SREEJITH,SC,
DR. THUSHARA JAMES, GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04.01.2019, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner was a registered dealer under the Kerala Value Added Tax Act, now migrated to the Goods and Services Tax regime. To use the input tax available to his credit at the time of migration, the petitioner had to upload FORM GST TRAN-1 within the stipulated time. He asserts that though he attempted to upload it within the time, he 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, the learned Government Pleader as well as the learned Standing Counsel for the fourth respondent, besides perusing the record.

3. The Ext.P4 is the 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 sixth respondent for the issue resolution.

5. So, in this case also, the petitioner may apply to the sixth respondent, 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. To set a time frame, I may also observe that if the petitioner applies within two weeks after receiving this judgment, the Nodal Officer will consider 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 him to take credit of the input tax available at the time of migration.

With these directions, I dispose of the Writ Petition.

Sd/-

DAMA SESHADRI NAIDU
JUDGE

sd

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE CERTIFICATE (NO. 32ABRPA3238QIZE).
EXHIBIT P2	TRUE COPY OF THE APPLICATION DATED 26.11.2018 FILED BEFORE THE 6TH RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD