IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 25TH DAY OF SEPTEMBER 2018 / 3RD ASWINA, 1940

WP(C).No. 22615 of 2018

PETITIONER/S:

M/S.GREEN NATURAL EXTRACTS PVT. LTD.
III/348, EDATHALA NORTH, ALUVA, KERALA - 683 561, REPRESENTED BY ITS MANAGING DIRECTOR, SRI. ANIS AHAMED.

BY ADVS.
SRI.E.P.GOVINDAN
SMT.G.DEEPA
SMT.JULIA PRIYA RESHMY
SRI.K.A.HASSAN

RESPONDENT/S:

1 THE ASSISTANT COMMISSIONER, CGST AND CENTRAL EXCISE
PERUMBAVOOR DIVISION, ERNAKULAM DISTRICT, PIN - 683 542.

2 THE CHIEF COMMISSIONER
CENTRAL GOODS AND SERVICE TAX, COCHIN ZONE, CR BUILDING, I.S.PRESS ROAD, ERNAKULAM - 682 018.

3 THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
REPRESENTED BY ITS CHAIRMAN, DEPARTMENT OF REVENUE, NORTH BLOCK, NEW DELHI - 110001.

4 THE UNION OF INDIA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE,
NORTH BLOCK, NEW DELHI - 110001.

5 ADDL.R5.GODS AND SERVICE TAX NET WORK
EAST WING, FOURTH FLOOR, WORLD MARK-1,
AEROCITY, NEW DELHI, PIN -110037. (ADDL.R5
IMPLEADED AS PER ORDER DATED 03.08.2018 IN IA
14174/2018.)

BY ADVS.
SRI.THOMAS MATHEW NELLIMOOTTIL, SC, CENTRAL
BOARD OF EXCISE & CUSTOMS
SRI.M.RAJENDRA KUMAR, CGC
SRI.M.RAJENDRA KUMAR CGC
SRI.P.R.SREEJITHSCGOODS AND SERVICES TAX
NETWORK
SRI.THOMAS MATHEW NELLIMOOTTIL SC CENTRAL
BOARD OF EXCISE AMP CUSTOMS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25.09.2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner is a company and registered dealer under the Goods and Service Tax Act. It ventilates its grievance that the 1st respondent Assistant Commissioner is not refunding Rs.1,62,72,000/- being the IGST it paid. As the petitioner's supply of turmeric extract powder amounts to deemed export during January to March 2018, the petitioner claimed refund of the tax. For this purpose, it filed Exts.P7, P8 and P9 applications. But though the procedure mandates that the demand for refund should be through an application uploaded electronically. The petitioner could not follow that procedure because of the unavailability of the online facility. Only in that context, as the petitioner submitted the applications physically. As those applications have not been processed in terms of Ext.P14 circular, the petitioner has filed this writ petition.

2. The Standing Counsel for the 3rd respondent has drawn my attention to the counter affidavit the respondents filed and submitted that Ext.P14 circular only facilitates belated uploading. He has also submitted that if the petitioner approaches the 5th respondent -GST Network, he will entertain the petitioner's applications and process them.

3. Heard the learned counsel for the petitioner, the learned Assistant Solicitor General, the learned Government Pleader as also the learned Standing Counsel.

4. The Government of India issued a circular 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 ademonstrable 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)

5. 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.

6. So, here too, 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 or any other applicable Form, without reference to the time-frame. Ordered so.

7. The petitioner to claim its refund based on the applications its already physically filed. For that purpose the Exhibits P15, P16 and P17 rejection orders shall stand quashed. With these observation, I dispose of the Writ Petition. The respondents may complete the entire exercise in three months.

Sd/-

DAMA SESHADRI NAIDU

JUDGE

das

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE MONTHLY RETURN FOR THE PERIOD JANUARY, 2018 SUBMITTED BY THE PETITIONER.**

EXHIBIT P2	**TRUE COPY OF THE MONTHLY RETURN FOR THE PERIOD FEBRUARY, 2018 SUBMITTED BY THE PETITIONER.**
EXHIBIT P3	**TRUE COPY OF THE MONTHLY RETURN FOR THE PERIOD MARCH, 2018 SUBMITTED BY THE PETITIONER.**
EXHIBIT P4	**TRUE COPY OF THE NOTIFICATION NO. 48/17 DT. 18.10.2017 ISSUED BY THE 4TH RESPONDENT.**
EXHIBIT P5	**TRUE COPY OF THE NOTIFICATION DT. 47/17 DT. 18.10.2017 ISSUED BY THE 4TH RESPONDENT.**
EXHIBIT P6	**TRUE COPY OF THE CIRCULAR NO. 14/14/17 GST DT. 06.11.2017 ISSUED BY THE THIRD RESPONDENT.**
EXHIBIT P7	**TRUE COPY OF THE APPLICATION DT. 14.06.2018 FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT (JANUARY, 2018).**
EXHIBIT P8	**TRUE COPY OF THE APPLICATION DT. 14.06.2018 FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT (FEBRUARY, 2018)**
EXHIBIT P9	**TRUE COPY OF THE APPLICATION DT. 14.06.2018 FILED BY THE PETITIONER BEFORE THE FIRST RESPONDENT (MARCH, 2018).**
EXHIBIT P10	**TRUE COPY OF THE DECLARATION ISSUED BY THE BUYER.**
EXHIBIT P11	**TRUE COPY OF THE SALE BILL (INVOICE)DT.11.01.2018 ISSUED IN FAVOUR OF THE EXPORTER.**

EXHIBIT P11(A)	**TRUE COPY OF THE SALE BILL DT. 06.02.2018 ISSUED IN FAVOUR OF THE EXPORTER.**
EXHIBIT P11(B)	**TRUE COPY OF THE SALE BILL DT. 23.02.2018 ISSUED IN FAVOUR OF THE EXPORTER.**
EXHIBIT P11(C)	**TRUE COPY OF THE SALE BILL DT. 13.03..2018 ISSUED IN FAVOUR OF THE EXPORTER.**
EXHIBIT P11(D)	**TRUE COPY OF THE SALE BILL DT. 30.03.2018 ISSUED IN FAVOUR OF THE EXPORTER.**
EXHIBIT P11(E)	**TRUE COPY OF THE SALE BILL DT. 21.03.2018 ISSUED IN FAVOUR OF THE EXPORTER.**
EXHIBIT P12	**TRUE COPY OF THE CERTIFICATE DT. 13.06.2018 ISSUED BY THE AUDITOR FOR JANUARY, 2018.**
EXHIBIT P12(A)	**TRUE COPY OF THE CERTIFICATE DT. 13.06.2018 ISSUED BY THE AUDITOR FOR FEBRUARY, 2018.**
EXHIBIT P12(B)	**TRUE COPY OF THE CERTIFICATE DT. 13.06.2018 ISSUED BY THE AUDITOR FOR MARCH, 2018.**
EXHIBIT P13	**TRUE COPY OF THE CERTIFICATE ISSUED BY THE BUYER IN FORM A 05.01.2018.**
EXHIBIT P13(A)	**TRUE COPY OF THE CERTIFICATE ISSUED BY THE BUYER IN FORM A DT. 19.01.2018.**
EXHIBIT P13(B)	**TRUE COPY OF THE CERTIFICATE ISSUED BY THE BUYER IN FORM A DT. 05.01.2018.**

EXHIBIT P14	**TRUE COPY OF THE CIRCULAR NO. 24/24/17 DT.21.12.2017 ISSUED BY THE THIRD RESPONDENT.**
EXHIBIT P15	**TRUE COPY OF THE REJECTION MEMO DT. 26.06.2018 AGAINST EXT.P7.**
EXHIBIT P16	**TRUE COPY OF THE REJECTION MEMO DT.26.06.2018 AGAINST EXT.P8.**
EXHIBIT P17	**TRUE COPY OF THE REJECTION MEMO DT.26.06.2018 AGAINST EXT.P9.**