

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 26TH DAY OF JULY 2018 / 4TH SRAVANA, 1940

WP(C).No. 25172 of 2018

PETITIONER:

VECTOR SURGICAL AND DISPOSABLES,
RAYAMANGALAM P.O, KURUPPAMPADY 683545
ERNAKULAM DISTRICT,
REPRESENTED BY THE PROPRIETOR SOORAJ A.V

BY ADV.SRI.N.K.KARNIS

RESPONDENT(S) :

1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY (REVENUE),
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE,
GOVERNMENT OF INDIA, NORTH BLOCK, NEW DELHI 110 001
2. THE PRINCIPAL SECRETARY,
FINANCE (GST WING), FINANCE (REV. 1) DEPARTMENT 4TH LEVEL,
A WING, DELHI SECRETARIAT, I.F ESTATE,
NEW DELHI 110 002
3. GST CONTROL,
REPRESENTED BY ITS CHAIRPERSON,
DEPARTMENT OF FINANCE, NORTH BLOCK,
NEW DELHI 110 001
4. GOODS AND SERVICE TAX NETWORK,
REPRESENTED BY ITS CHAIRMAN,
EAST WING, 4TH FLOOR, WORLD MARK I,
AERO CITY, NEW DELHI 110 037
5. THE COMMISSIONER,
GOODS AND SERVICE TAX DEPARTMENT,
MOOVATTUPUZHA, PIN 686 661
6. THE NODEL OFFICER FOR STATE GST,
GOODS AND SERVICE TAX DEPARTMENT,
MATTANCHERY, PIN : 682 002.
7. THE NODEL OFFICER,
CENTRAL CGST, GOODS AND SERVICE TAX DEPARTMENT,
PERUMBAVOOR 683542

R1 TO R4 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL OF INDIA
R5 TO R7 BY GOVERNMENT PLEADER DR. THUSHARA JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26-07-2018,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PBS

APPENDIX

PETITIONER(S) ' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE PROVISIONAL CERTIFICATE OF
REGISTRATION BEARING NO: 32AHAPAO 120EIZP DATED
21-09-2017
- EXHIBIT P2 TRUE COPY OF THE RETURN OF EXCISABLE GOODS AND
AVAILMENT OF CENVAT CREDIT FOR THE MONTH OF
JUNE 2017
- EXHIBIT P3 TRUE COPY OF THE E-MAIL SENT TO THE 4TH
RESPONDENT DATED 20-12-2017.
- EXHIBIT P4 TRUE COPY OF THE E-MAIL SENT TO THE 4TH
RESPONDENT DATED 28-12-2017.
- EXHIBIT P5 TRUE COPY OF THE CIRCULAR NO: 39/2018-GST DATED
3-4-2018
- EXHIBIT P6 TRUE COPY OF THE NOTIFICATION NO. 21/2017 DATED
23-11-2017 ISSUED BY THE 1ST RESPONDENT
- EXHIBIT P7 TRUE COPY OF THE REPRESENTATION SUBMITTED BY
THE PETITIONER DATED 23-1-2018 BEFORE THE 5TH
RESPONDENT
- EXHIBIT P8 TRUE COPY OF THE COMMUNICATION SUBMITTED BY
THE PETITIONER BEFORE THE 5TH RESPONDENT DATED
22-6-2018.
- EXHIBIT P9 TRUE COPY OF THE JUDGMENT DATED 28-06-2018 IN
W.P(C) NO. 20978 OF 2018 OF THIS HON'BLE COURT.

RESPONDENT'S EXHIBITS

NIL

/TRUE COPY/

PS TO JUDGE

PBS
31/7/2018

DAMA SESHADRI NAIDU, J.

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W.P.(C). No. 25172 of 2018

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Dated this the 26th day of July, 2018

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**

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