

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 11TH DAY OF JULY 2018 / 20TH ASHADHA, 1940

WP(C).No. 9100 of 2018

PETITIONER :

P. SANKARA NARAYANAN,  
PROPRIETOR,  
C.B.FURNITURE AND INTERIOUS,  
NOORANAD, ALEPPEY.

BY ADVS.SRI.ANIL D. NAIR  
SRI.R.SREEJITH  
SRI.P.JINISH PAUL  
KUM.MEKHALA M.BENNY  
SRI.ASISH MOHAN  
SRI.G.KRISHNAKUMAR (MALLYA)  
SRI.ACHYUT K PADMARAJ

RESPONDENTS :

1. GST COUNCIL,  
REPRESENTED BY ITS REVENUE SECRETARY AND  
EX-OFFICIO SECRETARY TO THE GST COUNCIL SECRETARIATE,  
5TH FLOOR, TOWER II, JEEVAN BHARTI BUILDING,  
JANPATH ROAD, CANNAUGHT PALACE,  
NEW DELHI-100001.
2. COMMISSIONER,  
OFFICE OF THE GST COUNCIL SECRETARIAT,  
5TH FLOOR, TOWER II, JEEVAN BHARTI BUILDING,  
JANPATH ROAD, CANNAUGHT PALACE,  
NEW DELHI-100001.
3. THE COMMISSIONER OF STATE TAX,  
TAX TOWER, KILLIPPALAM, KARAMANA P. O.,  
THIRUVANANTHAPURAM.

\*ADDL. 4TH RESPONDENT IMPLEADED:

4. THE DEPUTY COMMISSIONER/NODAL OFFICER,  
OFFICE OF THE COMMISSIONER OF CENTAL GST & CENTAL EXCISE,  
GST BHAVAN, PRESS CLUB ROAD, STATUE,  
THIRUVANANTHAPURAM-695001.

WP(C).No. 9100 of 2018

\* ADDL. 4TH RESPONDENT IS IMPEADED AS PER ORDER DATED 11.7.2018  
IN I.A.12153/2018.

R1-R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL  
R3 & R4 BY GOVERNMENT PLEADER SRI.V.K.SHAMSUDHEEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
11-07-2018, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

EL

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1            A COPY OF THE PRESS RELEASE DATED 10.11.2017 MADE  
BY THE 1ST RESPONDENT.

EXHIBIT P2            THE SCREEN SHOT TO THE WEBSITE OF THE 1ST  
RESPONDENT STATING EXTENSION OF DATE FOR  
FILLING TRAN-1

EXHIBIT P3            A COPY OF THE ORDER NO.10/2017 GST DATED 15.11.2017  
ISSUED BY THE 2ND RESPONDENT.

RESPONDENT(S) ' EXHIBITS

NIL

TRUE COPY

P.S. TO JUDGE

EL

23.7.2018

**DAMA SESHADRI NAIDU, J.**

=====  
**W.P.(C). No.9100 of 2018**  
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**Dated this the 11<sup>th</sup> day of July, 2018**

### **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 as well as the learned Government Pleader, 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 petitioners to apply to the additional 4<sup>th</sup> respondent for the issue resolution.
5. So, in this case also, the petitioner may apply to the additional 4<sup>th</sup> 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. 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**

**True copy**

**P.A to Judge**

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