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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 33 of 2018

M/s Bharat Aluminium Company Ltd. A Company Incorporated Under The Companies Act, 1956, Having Its Registered Office At Aluminium Sadan Core 6, Scope Office Complex, 7 Lodhi Road, New Delhi 110003 And Plant At P.O. Balco Nagar, Korba 495684 Chhattisgarh Through Its Authorised Signatory Gaurav Saini Manager (Legal)

---- Petitioner

Versus

1. Union Of India, Through The Joint Secretary (Revenue), Ministry Of Finance, Department Of Revenue, Room No. 46, North Block New Delhi-110001.
2. The GST Council, Through The Additional Secretary, GST Council Secretariat 5th Floor, Tower II, Jeevan Bharti Building Janpath Road, Connaught Place, New Delhi-110001
3. The Central Board Of Excise And Customs, Ministry Of Finance, Government Of India, North Block, New Delhi-110001
4. Commissioner Of Central Tax, Goods And Services Tax, Central GST Bhawan, Dhamtari Road, Tikrapara, Raipur, Chhattisgarh.
5. Assistant Commissioner, Central Tax, Goods And Service Tax, Korba, Plot No. 5, Nidhi Biz, Transport Nagar, Korba, Chhattisgarh.
6. Commissioner, State Tax, Goods And Services Tax, Raipur, Civil Lines, Near Raj Bhavan, Raipur, Chhattisgarh.
7. Assistant Commissioner, State Tax, Goods And Services Tax, Korba, Nagar Nigam Korba, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Jitendra Motwani, Advocate Mr. Sachin Singh Rajput, Advocate Mr. Sangeet Kumar Kushwaha, Advocate Mr. Vacun Chablani, Advocate
For Respondent No.1	:	Mr. B. Gopa Kumar, Asstt. S.G.
For Respondent No.2 to 6		Mr. Manish Sharma, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22/02/2018

1. Present writ petition has been filed seeking a direction against the respondents for permission to permit the petitioner to submit their physical copy of form GST TRAN-1 or the data uploaded on GST Portal without the digital signature under Section 140 of CGST Act

read with Rule 120 of the CGST Rules. In the alternative it was prayed that the GST and Portal be reopened to enable the petitioner to revive the form GST TRAN-1 and in consequence thereof allow the eligible transitional credit as per Section 140 of the CGST Act to the petitioner and credit such amount in the electronic register of the petitioner as input tax credit of GST.

2. The grievance of the petitioner was that the petitioner in order to avail the eligible transitional credit had filed form GST TRAN-1 but later sought to revise the form GST TRAN-1 originally filed. The petitioner had uploaded the revised data on the GST portal. However, though the data could be uploaded, but due to system error, the petitioner was unable to affix the digital signature to the uploaded data. Immediately, the petitioner approached the authorities in the department to permit the petitioner to submit a physical copy of GST TRAN-1 or to reopen the GST portal to enable the petitioner to revise form GST TRAN-1 so that the petitioner could avail the eligible transitional credit, but did not get a favourable response leading to the filing of the present writ petition.

3. Either parties appearing before this Court fairly submits that a similar matter came up before the Division Bench of Allahabad High Court in case i.e. Writ Tax No. 67/2018 in the case of M/s. Continental India Private Limited & Another vs. Union of India. The said writ petition got disposed of on 24.01.2018. The parties in the present writ petition also do not dispute that the nature of dispute raised before the Allahabad High Court was similar to the dispute of the petitioner in the instant petition, rather the case of the petitioner was on a better footage, in as much as the petitioner had already been

successful in filing of their forms before the authorities concerned, except for the fact that they could not affix their digital signature because of the system error.

4. The counsel for the respondent No.1 on seeking instruction from the department submits that the present writ petition can also be disposed of on similar terms.

5. In view of the submissions made by the counsel for the respondent No.1, the present writ petition also stands disposed of in similar terms.

6. Accordingly, it is ordered that the respondents shall reopen the Portal within two weeks from receiving the copy of this order. In the event, if they do not do so, they will entertain the application of the petitioner manually and pass orders on it after due verification of the credit as claimed by the petitioner. They shall also ensure that the petitioner is allowed to pay its taxes on a regular electronic system also, which is being maintained for use of the credit likely to be considered for the petitioner.

7. With the aforesaid directions and in terms of the order of the Division Bench of Allahabad High Court, the present writ petition also stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved