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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (T) No.79 of 2018

Sainik Mining & Allied Services Ltd., a company duly incorporated under the provisions of the Companies Act, 1956, having its registered office at Old VT Centre, Gevra Project, Korba, Chhattisgarh, through its President, Shri Satish Kaidan, S/o Shri Umed Singh, aged about 53 years, Old VT Centre, Gevra Project, Korba, Chhattisgarh

---- Petitioner

Versus

1. Union of India, through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, 136-A, North Block, New Delhi

2. Goods and Service Tax Council, through its Chairman, Goods and Service Tax Council Secretariat, 5th Floor, Tower II, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi

3. Commissioner of Central Tax, Goods and Services Tax, Central GST Bhawan, Dhamtari Road, Tikrapara, Raipur, Chhattisgarh

4. Commissioner, State Tax, Goods and Services Tax, Raipur, Civil Liens, Near Raj Bhavan, Raipur, Chhattisgarh

5. State of Chhattisgarh, through the Secretary, Department of Commercial Tax, Mahanadi Bhawan, Naya Raipur, Chhattisgarh

---- Respondents

For Petitioner:	Mr. Amrito Das, Advocate.
For Respondent No.1:	Mr. B. Gopa Kumar, Assistant Solicitor General of India.
For Respondent No.3:	Mr. Maneesh Sharma, Advocate.
For Respondents No.4 and 5 / State: -	
	Mr. Gary Mukhopadhyay, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

14/05/2018

1. The petitioner is a registered dealer under the Chhattisgarh Goods and Services Tax Act, 2017and providing coal mining, logistics and other allied services to mainly Coal India Ltd.. The petitioner filed its last return for the period from 1st April, 2017 to 30th June, 2017 under

the Chhattisgarh Value Added Tax Act, 2005 for pre-GST regime and it has shifted to the GST regime after coming into force of the new Act with effect from 1st July, 2017.

2. According to Rule 117 of the Chhattisgarh Goods and Services Tax Rules, 2017, the petitioner is required to submit declaration electronically in FORM GST TRAN -1, duly signed on the common portal. The said provision is a transitional provision for enabling the tax credit benefit to all those who migrated from the service tax regime to GST regime and final date for submission of the said FORM GST TRAN -1 was extended up to 27-12-2017 on the recommendation of the GST Council. It is the case of the petitioner that he is entitled to input tax credit benefit to the extent of 1,16,90,475/-. The further case of the petitioner is that the petitioner successfully punched the data relating to clauses 6(a) and 7(b), the invoice-wise detail as required under clause 7(b) was provided and the entire punching was completed much on time before the last date of submission. On clicking the submission button for filing TRAN-1, an error message was displayed as “some uploaded records are in progress, kindly submit once it is processed”. The authorities were complained of the said error which the authorities confirmed receipt of same and assured of updating as soon as the error was resolved, but it has not been resolved and the petitioner could not upload the statutory form TRAN-1, therefore, on account of technical glitches, the petitioner cannot be deprived of input tax credit benefit which the petitioner is otherwise entitled for. The petitioner has prayed for appropriate writ directing the respondent authorities to entertain the application of the petitioner manually and grant input tax credit benefit to the petitioner after due verification and to reopen the portal for

enabling the petitioner to submit / upload FORM TRAN – 1.

3. Return has been filed by respondent No.4 and 5 stating inter alia that the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs has set up an IT grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on GST portal providing for appointment of Nodal Officer on identified issues and solutions have also been suggested in the said notification.

4. Respondent No.3 – Commissioner of Customs, Central Excise and Service Tax also filed return in the same line.

5. I have heard learned counsel for the parties and considered their rival submissions made herein above.

6. On 3rd of April, 2018, a circular has been issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, New Delhi, for redressal of grievances of tax payers due to technical glitches on GST portal on which an IT Grievance Redresssal Committee has been constituted. Procedure for resolving the resolution of stuck TRAN – 1 has bee recorded and the manner has been indicated in paras 5 and 8 of the said circular. Para 5 relates to appointment of Nodal Officer and para 8 relates to resolution of stuck TRAN-1s and filing of GSTR-3B. Para 8 of the circular reads as follows: -

> "**8. Resolution of stuck TRAN-1s and filing of GSTR-3B**
>
> 8.1 A large number of taxpayers could not complete the process of TRAN-1 filing either at the stage of original or revised filing as they could not digitally authenticate the TRAN-1s due to IT related glitches. As a result, a large

number of such TRAN-1s are stuck in the system. GSTN shall identify such taxpayers who could not file TRAN-1 on the basis of electronic audit trial. It has been decided that all such taxpayers, who tried but were not able to complete TRAN-1 procedure (original or revised) of filing them on or before 27.12.2017 due to IT-glitch, shall be provided the facility to complete TRAN-1 filing. It is clarified that the last date for filing of TRAN 1 is not being extended in general and only these identified taxpayers shall be allowed to complete the process of filing TRAN-1.

8.2 The taxpayer shall not be allowed to amend the amount of credit in TRAN-1 during this process vis-a-vis the amount of credit which was recorded by the taxpayer in the TRAN-1, which could not be filed. If needed, GSTN may request field formations of Centre and State to collect additional document/data etc. or verify the same to identify taxpayers who should be allowed this procedure.

8.3 GSTN shall communicate directly with the taxpayers in this regard and submit a final report to GIC about the number of TRAN-1s filed and submitted through this process.

8.4 The taxpayers shall complete the process of filing of TRAN 1 stuck due to IT glitches, as discussed above, by 30th April 2018 and the process of completing filing of GSTR 3B which could not be filed for such TRAN 1 shall be completed by 31st May 2018."

7. After going through the aforesaid circular and the scheme of the circular, I am convinced that complete procedure has been prescribed for redressal of grievance which the petitioner has raised in this writ petition, particularly of non-uploading of FORM TRAN – 1 due to technical glitches. Apart from this, the State Government – Commissioner, Central Excise / GST has issued order dated 5-4-2018 in which Nodal Officers have already been appointed by the State

Government. In view of the above, the petitioner is directed to approach the Nodal Officer of Korba i.e. Assistant Commissioner, State GST, Korba Circle-1 within four days from today by filing representation along with all necessary documents for redressal of his grievance and in turn, the said authority would consider and dispose of the same following the procedure laid down in para 8 of the circular dated 3-4-2018 and would take decision accordingly keeping in view that this writ petition remained pending since 11-4-2018.

8. With the aforesaid direction, the writ petition stands finally disposed of. No order as to cost(s).

9. Certified copy by tomorrow.

Sd/-
(Sanjay K. Agrawal)
Judge

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