IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2018

CORAM

THE HONOURABLE MR.JUSTICE.K.RAVICHANDRABAABU

W.P.No.20892 of 2018

M.B.Enterprises
Represented by its Proprietor
B.Manohar
5/1, State Bank street
Mount road
Chennai-600 002 .. Petitioner

Vs.

1. Union of India
Through its Secretary (Revenue)
Ministry of Finance
Department of Revenue
Government of India
North Block, Newdelhi-110 001.

2. The Principal Secretary
Finance (Gst Wing)
Finance (Rev-I) Department
4th Level A-Wing,Delhi Secretariat
I.P.Estate, New Delhi-110 002.

3. Gst Council
Through its Chairperson
Department of Finance
North Block, New Delhi-110 001.

4. Goods and Services Tax Network
Respondent No.4 through its Chairman
East Wing, 4th floor, World Mark-1
Aerocity, New Delhi-110 037.

5. The Commissioner
Goods and Service Tax Department
Anna salai (Jurisdictional office),Chennai.

6. The Commissioner
of Central Gst and Central Excise
Range V, Gst Bhavan
Chennai. .. Respondents

Prayer:

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondents either to reopen the portal so that the petitioner can file the Form GST TRANS 1 and TRANS 2 returns or manually accept the FORM GST TRANS 1 and allow the petitioner to take the input tax credits.

For Petitioner : Mr.Kumarpal R.Chopra

For Respondents : Mr.V.Sundareswaran, Senior Panel Counsel

ORDER

The petitioner seeks for a writ of Mandamus directing the respondents either to reopen the portal so that the petitioner can file the FORM GST TRANS 1 and TRANS 2 returns or manually accept the FORM GST TRANS 1 and allow the petitioner to take the input tax credits.

2.Heard the learned counsel for the petitioner and the learned Senior Panel Counsel for the respondents.

3.The main grievance of the petitioner is that they are not in a position to take the credit to the electronic credit ledger on the stock of goods lying on 30.06.2017, which is not under the cover of excisable invoice, but under the cover of VAT invoice or any other invoice, since there is some lack of clarity in the new transition provisions under the GST Act. In other words, the petitioner finds it difficult in taking certain credit while giving effect to the transition provisions under the GST Act.

4.This Court has already considered the similar grievance expressed by the similarly situated persons and disposed of those writ petitions on 21.08.2018 in W.P.Nos.21321 to 21323 of 2018 by issuing certain directions. The learned counsel appearing for the petitioner submitted that similar directions may be issued in the petitioner's case as well.

5.Mr.V.Sundareswaran, the learned Senior Panel Counsel for the respondents though submitted that similar directions may be issued in this case as well, he requested this Court to make it clear that the petitioner is entitled to the benefits by way of directions issued by this Court, only when they have made genuine attempt in uploading the FORM GST TRANS 1. Needless to say that it is for the petitioner to place all the material facts including their attempt made to upload FORM GST TRANS 1, while making an application.

6.Accordingly, this Writ Petition is disposed of without expressing any view on the merits of the matter, only with the following directions:

(a) The writ petitioner shall submit their application in accordance with the circular dated 03.04.2018 within a period of two weeks from the date of receipt of a copy of this order to the Assessing Officer/Jurisdictional Officer/GST Officer.

(b) On receipt of such application, the Assessing Officer/Jurisdictional Officer/GST Officer is directed to forward the application to the Nodal Officer within a period of one week.

(c)The Nodal Officer in consultation with the GSTN shall take note of the grievance expressed by the petitioner/Assessee and forward the same to the Grievance Committee, which in turn would take an appropriate decision in the matter as expeditiously as possible, in any event, within a period of six weeks thereafter. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Kj
To

1. Union of India
Through its Secretary (Revenue)
Ministry of Finance
Department of Revenue
Government of India
North Block, Newdelhi-110 001.

2. The Principal Secretary
Finance (Gst Wing)
Finance (Rev-I) Department
4th Level A-Wing
Delhi Secretariat
I.P.Estate, New Delhi-110 002.

3. Gst Council
Through its Chairperson
Department of Finance
North Block, New Delhi-110 001.

4. Goods and Services Tax Network
Respondent No.4 through its Chairman
East Wing, 4th floor, World Mark-1
Aerocity, New Delhi-110 037.

5. The Commissioner
Goods and Service Tax Department
Anna salai (Jurisdictional office)
Chennai.

6. The Commissioner
of Central Gst and Central Excise
Range V, Gst Bhavan
Chennai.

+1cc to Mr.Kumarpal R.Chopra, Advocate, S.R.No.59175
+2ccs to Mr.V.Sundareswaran, Advocate, S.R.No.59393

W.P.No.20892 of 2018

CS/31/08/18