THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

WRIT PETITION NOs.30501 AND 31714 OF 2018

COMMON ORDER: {Per the Hon'ble Sri Justice Ramesh Ranganathan}

Heard Sri M.V.K.Moorthy, learned counsel for the petitioner and Sri B.Narasimha Sarma, learned Senior Standing Counsel for CGST and Customs and, with their consent, both the Writ Petitions are disposed of at the stage of admission. In both these Writ Petitions, a mandamus is sought to direct the respondents to reopen the portal or to accept the TRAN-I Form filed manually and to rectify the GST tax return uploading system by software.

The Department of Revenue, Central Board of Indirect Taxes and Customs, Ministry of Finance, Government of India issued notification No.48/2018 dated 10.09.2018 amending Rule 117 of CGST Rules and inserted Clause (1A) thereto. It further inserted a proviso to Rule 117(4)(b)(iii). The amended Rule 117(1A) and the proviso to Rule 117(4)(b)(iii) read thus:

> "Notwithstanding anything contained in sub-rule (1), the Commissioner may, on the recommendations of the Council, extend the date for submitting the declaration electronically in **FORM GST TRAN-1** by a further period not beyond 31st March, 2019, in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension."
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> "Provided that the registered persons filing the declaration in **FORM GST TRAN-1** in accordance with sub-rule (1A), may submit the statement in **FORM GST TRAN-2** by 30th April, 2019."

In terms of the amendment brought about by Rule 117(1A) of the CGST Rules, power has been conferred on the Commissioner, on the recommendations of the GST Council, to extend the date for submitting the declaration electronically in FORM GST TRAN-1 by a further period not beyond 31.03.2019 in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal, and in respect of whom the Council has made a recommendation for such extension.

The very fact that the Government of India has, itself, issued a notification amending the Rules is its recognition of the fact that certain dealers were unable to electronically submit their declarations in FORM GST TRAN-1 on 27.12.2017. Pursuant to Notification No.48/2018, the Commissioner (GST) issued Order No.4/2018-GST dated 17.09.2018 exercising his powers under Rule 117(1A) of the CGST Rules, to extend the period for submitting the declarations in FORM GST TRAN-1 till 31.01.2019 for the class of registered persons who could not submit the declaration by the due date on account of technical difficulties on the common portal, and whose cases have been recommended by the Council.

Sri M.V.K.Moorthy, learned counsel for the petitioner, would seek permission for the petitioners to make a representation to the GST Council requesting them to examine whether failure on the part of the petitioner to upload TRAN-I FORM was because of technical glitches on 27.12.2017 or because of server error.

It is open to the petitioner, in terms of the notification dated 10.09.2018 and the subsequent order dated 17.09.2018, to seek recommendation of the GST Council for submission of FORM GST TRAN-I within the time-frame stipulated in the order dated

17.09.2018, and to satisfy the authorities concerned that their attempts to file FORM GST TRAN-I on 27.12.2017 failed because of systems error or server related issues.

Both the Writ Petitions are, accordingly, disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, J)

(D.V.S.S.SOMAYAJULU, J)

24th October 2018
RRB