IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-37912-2018

Date of Decision: 21.12.2018

M/s Omax Autos Ltd., Gurgaon

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. Vikas Bahl, Senior Advocate with
Mr. Abhilaksh Grover, Advocate and
Mr. Nikhil Sabharwal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing the respondents to allow its claim for transfer of eligible transitional credit amounting to ₹ 9.83 crores or to decide the representations (Annexure P-11 Colly) moved by the petitioner.

2. The petitioner is registered under the GST in the State of Haryana having registration No.GSTN06AAACO2190C3ZB and is also registered under the Haryana VAT Act, 2003, Central Excise Act, 1944 and Finance Act, 1994. The petitioner is regularly filing the returns under the Central goods and Services Tax Act, 2017. It had filed the Transition Form on 25.8.2017 at 6.25 PM (Annexure P-3) for claiming transitional credit of ₹ 8.15 crores on the basis of ER-1 and ST-3 returns filed for the quarter ended 30.6.2018. The petitioner was assigned ARN-AA060817055356X

and vide e-mail dated 25.8.2017 (Annexure P-4), confirmation was sent to respondent No.1. The said Form TRAN-1 was filed on the basis of excise and VAT return for the period ending on 306.2017 and, therefore, the same was not reflected in the electronic credit ledger of the petitioner. The petitioner vide e-mail dated 28.8.2017 (Annexure P-5) informed the said error and also included screen shot of the electronic credit ledger that displayed transitional credit from VAT and Excise returns as nil. Thereafter, the petitioner sent the representations dated 30.8.2017, 17.10.2017, 20.11.2017, 19.12.2017 and 20.3.2018 (Annexure P-6 Colly) regarding the non-reflection of balance Cenvat Credit carried forword in the last return and for manually submission of GSTR-3B and Trans-I due to GSTN problem, but no response has been received till date. Since the petitioner had a credit of ₹ 1.68 crores on account of invoices raised by the vendors/service providers during July, 2017 for input/input services provided prior to 1.7.2017, the Form Tran-I originally filed by the petitioner on 25.8.2017 was revised on 27.12.2017 and the revised Tran-I (Annexure P-8) was submitted vide e-mail dated 27.12.2017 (Annexure P-7) upon which respondent No.1 assigned ARN as AA061217021933E. The petitioner also furnished details of total Cenvat Credit of ₹ 9.83 crores. As the ITC was not being reflected while punching other parts of Form Tran-1, the petitioner was unable to claim the ITC under the GST Act. The Central Board of Indirect Taxes and Customs vide circular dated 3.4.2018 (Annexure P-9) notified an IT Grievance Redressal Mechanism to address the grievances of the taxpayers due to technical errors of the GST Portal and directed the taxpayers to make an application to the Field Officers or the Nodal Officers where there was a demonstrable glitch on the common Portal due to which process could not be completed on the common Portal. It was also provided therein that the applications would be collected by the Nodal Officer and forwarded to the GSTN who on receipt thereof would examine the same. The GSTN after verification its electronic records and the applications received, identify the issue involved where a large section of taxpayers were affected and shall forward the same to the IT Grievance Redressal Committee with suggested solutions for resolution of the problem. Similar issue came up before this Court in CWP-4180-2018 and other connected cases and this Court vide order dated 21.5.2018 (Annexure P-10) directed that the representations of entities facing similar issues be decided by the Nodal Officer and the IT Redressal Committee constituted for that purpose. In view of the circular dated 3.4.2018 (Annexure P-9) and the order (Annexure P-10) passed by this Court, the petitioner vide letters dated 21.5.2018, 3.8.2018 and 16.8.2018 (Annexure P-11 Colly) to respondent No.6 for redressal of its grievances, but to no effect.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved the representations dated 21.5.2018, 3.8.2018 and 16.8.2018 (Annexure P-11 Colly) before respondent No.6, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.6 to forward the representations dated 21.5.2018, 3.8.2018 and 16.8.2018 (Annexure P-11 Colly) to the IT Redressal Committee concerned within next fifteen days after verification by the GSTN and the Committee shall thereafter decide the same in terms of Clause 5.4 of Circular dated 3.4.2018

(Annexure P-9), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of four weeks from the date of receipt of the said representations. The petitioner shall be entitled to lead any evidence to substantiate its claim before the concerned authority.

(AJAY KUMAR MITTAL)
JUDGE

December 21, 2018
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**