

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 78 OF 2019**

TECH FORCE COMPOSITES PVT. LTD.
GOA UNIT, REP. BY ITS POA, DILEEP
NAIK.

... Petitioner

Versus

UNION OF INDIA, THR. MINISTRY OF
FINANCE, NEW DELHI AND 5 ORS.

... Respondents

Mr. G. K. Sardesai, Mr. Avalon Alton Carvalho and Ms. M. Rao,
Advocates for the Petitioner.

Mr. D. Pangam, Advocate General with Mr. S. P. Munj, Addl.
Government Advocate for Respondent Nos.3 and 4.

Ms. Priyanka Kamat, Standing Counsel for Respondent Nos.5 and
6.

Coram:- M. S. SONAK &

NUTAN D. SARDESSAI, JJ.

Date:- 27th September, 2019

P.C.

Heard Mr. G. K. Sardesai, learned counsel for the
Petitioner and Ms. P. Kamat, learned Standing Counsel for
Respondent Nos.5 and 6.

2. Mr. Munj appears for Respondent Nos.3 and 4.
Respondent Nos.1 and 2 though served are not represented by any

counsel.

3. The grievance of the Petitioner is that when the Petitioner submitted its TRAN-1 form on the online GST portal on 27.12.2017 whereby acknowledgment No.AA3011170204330, the Petitioner realised that by mistake the last digit of the amount i.e. "4" remained to be added. Therefore, instead of claiming credit amount of Rs.1,34,84,304/- as stated in the Excise Return ER-1, the Petitioner claimed credit of Rs.13,48,430/-, thereby claiming a short credit of Rs.1,21,35,874/-. It is the case of the Petitioner that this was a typographical/human error completely unintended.

4. Mr. G. K. Sardesai, learned counsel for the Petitioner, without prejudice to the reliefs prayed for in the petition submits that in somewhat similar circumstances, this Court in the case of ***O/E/N/India Ltd. & Anr Vs Union of India & others*** in WP No.2086 of 2018 which was disposed of on 24.10.2018, permitted the Petitioner in the said petition to make a representation to the Central Board of Indirect Taxes and Customs (CBIC) and directed the CBIC to consider such representation for verification and the bonafide of the claim made by the Petitioner. Mr. Sardesai on the basis of the instructions from the Petitioner submits that if this course of action is adopted in the present case, the Petitioner, for the

present would be satisfied. He submits that if the CBIC does not give favourable response to the representation, the Petitioner may be reserved liberty of taking out appropriate proceedings to seek redressal in the matter.

5. Ms. Kamat, learned Standing counsel for Respondent Nos.5 and 6 on instructions, submits that some time may be granted in order to consult the CBIC on the issue as to whether the CBIC will consider a representation of this nature. According to us, in the peculiar facts of the present case and upon considering the order made by this Court in *O/E/N India Ltd.* (supra) there is no necessity to adjourn this matter any further. In fact, we note that in our order dated 05.03.2019 we had precisely recorded the very same statement made by Mr. Sardesai that the Petitioner will be satisfied that if the present petition is disposed of by making an order similar to the order dated 24.10.2018 in Writ Petition No.2086 of 2018. Thus considerable time has elapsed since making of our order dated 05.03.2019 and therefore, we do not deem it appropriate to consider Ms. Kamat's motion for adjournment at this stage.

6. According to us, the interest of justice will be served if the Petitioner is granted liberty to make representation to the CBIC and the CBIC is directed to consider such representation for

verification and bonafide of the claim made by the Petitioner, no doubt in accordance with law and on its own merits. Mr. Sardesai states that such representation will be made to the CBIC within 15 days from today. If such representation is indeed made, the CBIC is directed to consider such representation in the aforesaid terms and dispose of the same as expeditiously as possible and in any case within a period of two months from the date the same is received by the CBIC.

7. We clarify that in case the Petitioner is not satisfied with the response of the CBIC, liberty is reserved to the Petitioner to take out appropriate proceedings in the matter, *inter alia* on the grounds which have now been urged in this petition as well. This is because we have not examined the rival contentions on merits and we leave this exercise to the CBIC whilst disposing of the Petitioner's representation.

8. This petition is disposed of in the aforesaid terms.

9. All concerned to act on the basis of the authenticated copy of this order.

NUTAN D. SARDESSAI, J.

M. S. SONAK, J.

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