IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2019

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THE HON'BLE Dr.JUSTICE ANITA SUMANTH

W.P.No.4137 of 2019

Kumar Auto Agency
Rep by its Managing Dierector P.Kumar
262/108, Thepparkulam Street,
Sankari Road,
Tiruchengode-637211 ... Petitioner

--Vs--

1. The Principal Secretary/Commissioner of Commercial Taxes
   Ezhilagam, Chennai-600 005

2. The Joint Commissioner of Commercial Taxes
   Salem

3. The Nodal Officer of GST Implementation Committee (GIC)
   5th Floor, Tower II, Jeevan Bharti Building,
   Janpath Road, Connaught Place,
   New Delhi-110 001

... Respondents

PRAYER in WPs:

Writ Petitions filed under Article 226 of the Constitution of India praying for a writ of Mandamus directing the 1st respondent to enable the petitioner to file GST TRAN 1 electronically or manually and treat it as filed in accordance with law.

For Petitioner : Ms.B.Raveendran

For Respondent : Mr.M.Hariharan
Additional Government Pleader
for R1 & R2

No Appearance for R3

ORDER

The Writ Petitioner has approached this Court seeking a Writ of Mandamus directing the first respondent, the Principal Secretary/Commissioner of Commercial Taxes to enable the petitioner to file GST TRAN 1 electronically and treat the same as filed in accordance with law.

2. Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for respondents 1 & 2. There is no representation on behalf of the third respondent.

3. At the outset, Mr.Hariharan states that the prayer is misconceived insofar as it seeks a direction as against R1, whereas the prayer should have been directed as against R3, the Nodal Officer GST implementation Commission.

4. Be that as it may, the short point canvassed is that the petitioner is entitled to the benefit of Input Tax Credit (ITC) which is to be availed of by filing Form TRAN 1. However, on account of certain technical difficulties, the petitioner has not been in a position to uphold the said Form, as a result of which, he is unable to utilize the Credit.

5. Mr.M. Hariharan, states on instructions, that there admittedly have been certain glitches in the working of the system and undertakes that the same will be rectified within a period of two (2) weeks from today.

6. This Court in the case of Calibre Industries vs. Principal Commissioner GST Central Excise and others (WP.No.18794 of 2018) has had occasion to deal with a similar matter and has directed the petitioner in that case to submit their applications seeking rectification of the technical difficulties, such applications to be considered by the appropriate officer within a fixed time frame. In the present case, the petitioner has been approaching the respondent consistently from May 2018 regularly requesting that the situation be set right. The first request was made to the Joint Secretary of Commercial Taxes, Salem, on 03.05.2018. Pursuant thereto, the 2nd respondent has issued an internal communication to the Input Tax Credit (ITC) section seeking its intervention in the matter. Thereafter, requests were made on 03.05.2018 and 18.05.2018, all of which have been ignored, thus far.

7. The position that a large number of assessees are facing difficulties in accessing the GST website and/or uploading the required Forms is not in dispute. In fact, the Central Board of Indirect Taxes (CBIC) has issued Circular No.39/13/2018 GST dated 03.04.2018 wherein at Paragraph No.8, stating as follows:

> 8. Resolution of stuck TRAN-1s and filing of GSTR-3B8.
>
> 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 trail. 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 27.12.2017due toIT-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.
>
> 8.2 The taxpayer shall not be allowed to amend the amount of credit in TRAN-1 during this process vis-à-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 30thApril 2018 and the process of completing filing of GSTR 3B which could not be filed for such TRAN 1 shall be completed by 31stMay 2018.

8. In the light of the aforesaid and the fair submission of Mr.M. Hariharan before me as recorded in paragraph No.5 of this order, I direct that the technical difficulties faced by the petitioner in uploading GST TRAN I be rectified within a period of two (2) weeks from the date of receipt of a copy of the order. This Writ Petition is disposed in the above terms. No costs.

Ska

"Being Mentioned"

This Matter having been listed on 27.04.2019 under the caption " For Being Mentioned" in pursuance to the order of this court dated 18.02.2019 and upon hearing the arguments of aforesaid counsels, this court made the following order:-

This matter is listed today under the caption 'for being mentioned' at the instance of Mr.Hariharan, Learned Additional Government Pleader and learned counsel are heard.

2.In the light of my direction at page 5 in paragraph 8 of the order dated 18.02.2019, no further clarification is required in this matter.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary/
Commissioner of Commercial Taxes
Ezhilagam, Chennai-600 005

2. The Joint Commissioner of Commercial Taxes
   Salem

3. The Nodal Officer of GST Implementation Committee (GIC)
   5th Floor, Tower II, Jeevan Bharti Building,
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   New Delhi-110 001

+1 cc to Mr.B.Raveendran, Advocate Sr.No.14816
+1 cc to The Government Pleader, Sr.No.41659

W.P.No.4137 of 2019

GJ(CO)
CSL/25.04.2019
CS/06/05/2019