IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-07-2019

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR
W.P.No.9052 of 2019

M/s.Parekh Integrated Services Pvt. Ltd..,
Represented Through their Accounts Manager,
117/3C, Padmavathi Garden,
Numbal,
Velappanchavadi,
Chennai-600 077. .. Petitioner

..Vs..

1.The Commissioner of GST & Central Excise,
Chennai Outer Commissionerate,
Newry Towers No.2054, I Blcok,
II Avenue, 12th Main Road,
Anna Nagar,
Chennai-600 040.

2.The Nodal Officer,
Commissioner,
O/o The Principal Commissioner of GST & Central Excise,
GST Bhawan,
No.26/1, Mahatma Gandhi Road,
Chennai-600 034.

3.The Superintendent of GST & Central Excise,
Maduravoyal Range,
Poonamallee Division,
Chennai Outer Commissionerate,
No.42, Trunk Road,
Poonamallee,
Chennai-600 056.

4.The Goods and Services Tax Network (GSTN),
East Wing, 4th Floor, Word Mark, I
Aerocity,
New Delhi - 110 037. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to forward the file to the fourth respondent to consequently reopen TRAN-01 before 29.3.2019 and in the event of failure to do so direct the first respondent to accept the manual TRAN-01 and assist in carry forwarding the TRAN-01 credit.

For Petitioner : Ms.J.Arasi Ponmalar

For Respondents : Mr.V.Sundareswaran, Senior Panel Counsel (GST).

O R D E R

Ms.J.Arasi Ponmalar learned counsel on record for writ petitioner and Mr.V.Sundareswaran, learned Senior Panel Counsel (GST) on behalf of all the four respondents, are before this Court.

2. With consent of learned counsel on both sides, the main writ petition itself is taken up, heard out and is being disposed of.

3. Considering the trajectory of hearing today, short facts shorn of elaboration, details and particulars will suffice. In this view of the matter, suffice to say that the entire writ petition pertains to transitional credit to be availed by writ petitioner, pursuant to 'Goods and Services Tax' (GST) regime, which came into force on and with effect from 1.7.2017. In other words, subject matter of writ petition pertains to writ petitioner availing transitional credit available to writ petitioner as of 30.6.2017.

4. There is no disputation or disagreement before this Court that aforesaid exercise of availing transitional credit is governed by a set of Rules captioned 'The Central Goods and Services Tax Rules, 2017' (hereinafter 'GST Rules' for brevity), which is a set of Rules, which can be technically described as 'subordinate legislation'. The reason is GST Rules have been made by Central Government in exercise of Rule making power conferred on Central Government by Section 164 of 'Goods and Services Tax Act, 2017 (12 of 2017)', hereinafter 'GST Act' for brevity.

5. It is not in dispute that writ petitioner filed what is described as 'TRAN-01' on 28.9.2017 and received credit amounting to little over Rs.13.21 lakhs (Rs.13,21,409/- to be precise) in their State Goods and Services Tax (SGST) e-Credit Ledger.

6. It is also brought to the notice of this Court that aforesaid TRAN-01 was reopened, petitioner re-filed TRAN-01 and they received credit of only

Rs.5,17,558/- this time in their SGST e-Credit Ledger. To be noted, writ petitioner's say is that they are entitled to a credit of Rs.83,20,469/-.

7. It appears that writ petitioner had entered the details of stock in Column No.10 of TRAN-01 instead of Column No.7. Be that as it may, it is submitted that owing to a lesser amount being credited in SGST e-Credit Ledger of writ petitioner, efforts were taken by writ petitioner i.e., correctional measures, but in vain. It is the specific case and stated position of writ petitioner that they had approached respondents 1 and 3 with regard to reopening, but had not received any communication after submission of documents by the writ petitioner. It is also submitted that electronic re-submission did not fructify as the system does not accept the same.

8. It is under aforementioned circumstances that writ petitioner has filed the instant writ petition inter-alia with a prayer to Mandamus the second respondent, namely, Nodal Officer, to forward writ petitioner's file to fourth respondent for reopening the aforesaid TRAN-01.

9. There is another limb of prayer which talks about directing the first respondent (whom this Court informed is the Jurisdictional Commissioner) to accept manual filing. Also to be noted, this Court is informed that the fourth respondent is not a Human Agency, but it is a Network, which has been created for redressal of grievances of the nature which is being articulated in the instant writ petition.

10. This takes us to trajectory of hearings thus far qua instant writ petition i.e., earlier listings.

11. Proceedings made by my learned predecessor Judge on 26.3.2019 are of significance and the same reads as follows:

> 'Mr.V.Sundareswaran, learned Senior Panel Counsel, takes notice for the respondents.
>
> 2. The petitioner has approached the respondents seeking reopening of TRAN-01, which, according to petitioner it is unable to do on account of technical glitches.
>
> 3. Mr.V.Sundareswaran, learned Senior Panel Counsel for the respondents, circulates a copy of Notification dated 31.1.2019,

pointing out that the technical glitches must relate to difficulty in accessing the common portal and not technical errors in the claim made by the petitioner.

4. Mr.Sundareswaran also cites Rule 120-A of the Central Goods and Services Tax (CGST) Rules, 2017, stating that a revision of TRAN-01 may be effected only once and in the present case, the petitioner has already sought a revision earlier.

5. I refrain from considering these issues and leave it to the concerned authority to do so.

6. The authority will consider the request of the petitioner after affording an opportunity of personal hearing.

7. The petitioner / authorised representative will appear before the Nodal Officer / second respondent on 27.3.2019 at 10.30 a.m., with all materials in support of its claim. Appropriate orders shall be passed by the Officer on or before 29.3.2019, in accordance with law seeing as the last date for filing of returns is 31.3.2019.

8. List the case on 2.4.2019.'

(underlining made by this Court to supply emphasis and highlight)

12. It is also not in dispute that counter-affidavit has been filed thereafter by the second respondent. Be that as it may, there is no dispute and disagreement that authorised representative of writ petitioner had considerable difficulty in going before the second respondent on 27.3.2019. It is also not in dispute that this was owing to lack of clarity about which Officer should hear the authorised representative of writ petitioner. In effect, there is no disputation that nothing happened on 27.3.2019 before the second respondent.

13. In view of the aforesaid circumstances, this Court is of the considered view that it would be appropriate to direct the second respondent now hear out writ petitioner's authorised representative (pursuant to proceedings dated 26.3.2019 made by my predecessor learned Judge, more particularly paragraph-7 thereof) and pass orders within a fortnight therefrom on writ petitioner's grievance qua short credit.

14. Second respondent shall also indicate the mode of re-filing if that is the option in the order.

15. Mr.V.Sundareswaran, learned Senior Panel Counsel submits that the Officer concerned is Mr.M.Sreedhar Reddy, Principal Commissioner, Principal Nodal Officer, IT Grievances, Central Tax, Chennai Zone, GST Bhawan, No.26/1, 3rd Floor, Uttamar Gandhi Salai, Nungambakkam, Chennai-600 034.

16. Writ petitioner's authorised representative with due authorisation, shall go before the aforesaid Officer on 29.7.2019 (Monday) i.e., 29th day of July, 2019 at 11.30 A.M. and present all material in support of their E-Credit Ledger, besides articulating the difficulty that is being faced. Though obvious venue shall be abovementioned office of aforesaid Officer. To be noted, date, time and venue has been given to this Court by learned Revenue Counsel after getting instructions.

17. Thereafter, the aforesaid Officer shall pass speaking order in this regard in accordance with paragraph-7 of proceedings/ order of this Court dated 26.3.2019 which has been extracted from case file and reproduced supra in this order. Such speaking order shall be communicated to writ petitioner under Due Acknowledgment, within seven working days from the date of order.

18. Though obvious, it is made clear that all questions, including questions canvassed by the writ petitioner in the instant writ petition, are left open to be canvassed by writ petitioner if the order to be passed by the aforesaid Officer is not to the satisfaction of the writ petitioner. Therefore second limb of prayer regarding manual filing which has been alluded to supra is left open in this order.

19. Writ petition is disposed of with the above directions. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Commissioner of GST & Central Excise,
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+1cc to Mr.V.Sundareswaran , Advocate SR.No. 60546
WP 9052 of 2019

A.SK(13/08/2019)
A.SK(05/09/2019)