IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2019

CORAM :

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.9517 of 2019 and
WMP.No.10135 of 2019

Tvl.Mercury Steels
Represented by its Partner P.Mahalingam,
Bangalore Main Road,
Salem- 636 005. ...Petitioner

..Vs..

1.The Commissioner of Central Tax & Central Excise,
No.1, Soulkes Compound, Anai Medu,
Salem - 636 001.

2. The Assistant Commissioner (EDP),
Office of the Commissioner of Central Tax &
Central Excise,
No.1, Soulkes Compound, Anai Medu,
Salem - 636 001. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records on the files of the 2nd respondent in C.No.IV/16/75/2018 EDP dated 06.12.2018 and quash the same and further direct the respondents to consider and grant the request to re-open the TRANS-1 form to update the opening stock CENVAT credit as requested for vide representation dated 16.11.2018.

For Petitioner : Mr.R.Senniappan

For Respondents : Mrs.Hema Muralikrishnan



O R D E R

This Writ Petition has been filed challenging the order of the second respondent in C.No.IV/16/75/2018 EDP dated 06.12.2018 and quash the same and further direct the respondents to consider and grant the request to re-open the TRANS-1 form to update the opening stock CENVAT credit as requested for vide representation dated 16.11.2018.

2. The second respondent passed the impugned order dated 06.12.2018, rejecting the request made by the petitioner on 16.11.2018, pointing out certain technical and software problems faced by them in uploading the returns for GST. The Second Respondent in the impugned order states that time frame for filing of tran 1 has expired. He also points out that no evidence was produced to show that technical difficulties existed.

3.Mr.R.Senniappan, learned counsel for the petitioner submits that the petitioner has appeared before the Second Respondent/Nodal Officer and filed a representation on 29.03.2019, pointing out various technical glitches leading in uploading the returns for GST.

4. In the light of the fact that the petitioner has admitedly filed the representation dated 29.03.2019, with enclosures, I am of the view that the petitioner should be granted an opportunity to pursue its case before the Nodal Officer.

5. In the result, this Writ Petition is allowed and the impugned order dated 06.12.2018 is set aside. The second respondent is directed to pass orders on the representation of the petitioner dated 29.03.2019, within a period of four weeks from date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar



arr/ms

To

1.The Commissioner of Central Tax & Central Excise,
No.1, Soulkes Compound, Anai Medu,
Salem - 636 001.

2. The Assistant Commissioner (EDP),
Office of the Commissioner of Central Tax & Central Excise,
No.1, Soulkes Compound, Anai Medu,
Salem - 636 001.

+1 CC to Mr.R.Senniappan, Advocate sr 36523.
+1 CC to Mrs.Hema Muralikrishnan, Advocate sr 36842.



SVI(CO)
SP(02/05/2019)