BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.10.2019
CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ
W.P(MD)No.21320 of 2019

Angamuthu Amuthavel .. Petitioner

Vs.

1.The Commercial Tax Officer,
Kulithalai,
1st floor, near Canara Bank,
Vaiganallur Agraharam,
Kulithalai - 639 104.

2.Goods and Services Tax Council,
rep.by Special Secretary,
Office of the GST Council Secretariat,
5th floor, Towr II, Jeevan Bharati Building,
Janpath Road, Connought Place,
New Delhi - 110 001.

3.The Joint Commissioner,
(Computer Systems),
Commercial Tax Department,
PAPJM Building, Greams Road,
Chennai - 600 006.

4.Union of India,
rep.by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi - 110 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondents to either extend the date of submitting the declaration electronically in FORM GST TRAN-1 or Re-open and reinstate the Facility of online or manual submission of TRAN-1 in so far as the petitioner is concerned.

For Petitioner: Mr.R.Murali for Mr.K.Govindarajan
For R1 : Mrs.J.Padmavathi Devi
Special Government Pleader
For R2 : Mr.Aravindan
For R4 : Mr.Narayanan

ORDER

The writ petitioner seeks a direction directing the respondents either to extend the date for submitting the declaration electronically in FORM GST TRAN-1 or to re-open and reinstate the facility of online or manual submission of TRAN-1, in so far as the petitioner is concerned for the purpose of availing Input Tax Credit.

2.According to the petitioner, he has been continuously trying to upload his inputs for availing Input Tax Credit, but the system did not accept the same and an automated reply was given that the respondents are working on the issue reported and would update the petitioner soon. The same had continued due to technical glitches till April 2019. Aggrieved over the same, the petitioner has filed the present writ petition.

3.The learned counsel appearing for the petitioner would rely on a decision of this Court in WP.(MD)No.18532 of 2018 dated 10.09.2019 [Tara Exports vs. The Union of India and others], wherein this Court has directed the respondents therein to open the portal so as to enable the petitioner to file his form technically by extending the last date.

4.On instructions, the learned Special Government Pleader appearing for the first respondent would submit that the Government of India, Ministry of Finance (Department of Revenue) vide F.No.CBEC-20/06/17/2018-GST, dated 31.01.2019, has extended time till 31.03.2019. Since the petitioner has not availed such opportunity, it is not open to him to ask for further time. Therefore, the writ petition is liable to be dismissed. She would also vehemently contend that the case decided by this Court in ***Tara Exports'***(cited supra) is not applicable to the writ petitioner, as the petitioner therein approached the Court after filing his returns even before the last date, whereas, in the present case, the petitioner has not initiated filing of TRAN-1 before the last date and therefore, he cannot rely upon the aforesaid decision.

5.I have considered the rival submissions made on either side.

6.Admittedly, there are technical glitches in uploading the returns/forms in the portals of the respondents. The reply from the respondents that they will look into the issue and update the petitioner soon and further requested the petitioner to wait for some time, would go to show that there are technical glitches even beyond the last date of filing. In fact, the records reveal that the petitioner has approached the respondents in time, but due to technical glitches, he could not succeed in his attempt to upload the files. In such circumstances, I am of the considered view that the case of the petitioner is fully covered by the decision of this Court in ***Tara Exports's*** case. Admittedly, the portal is not opened due to technical glitches as admitted by the respondents dated 22.01.2018, 26.01.2018 and 22.04.2019. Therefore, I am inclined to grant the relief as sought in the writ petition.

7.Accordingly, the writ petition is allowed and the respondents are directed either to extend the date of submitting the declaration electronically in FORM GST TRAN-1 or re-open and reinstate the facility of online or manual submission of TRAN-1 in so far as the petitioner is concerned. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

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To

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+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-91796[F] dated 15/10/2019)

+1 CC to M/s.GP (SR-91921[F] dated 15/10/2019)

W.P.(MD)No.21320 of 2019
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