IN THE HIGH COURT FOR THE STATE OF TELANGANA

HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHAVA RAO

Writ Petition No.45761 of 2018

Between:

Thales India Pvt. Ltd., Survey No.430 to 437 and 438, Metro Uppal Depot, Uppal Main Road, Hyderabad, represented by its Authorised Signatory

… Petitioner

And

Commissioner of Commercial Taxes, Enforcement Wing, Hyderabad and 2 others

… Respondents

Counsel for the Petitioner : Mr. Jakkula Sridhar,

Counsel for Respondents : G.P. for Commercial Tax

HONOURABLE SRI JUSTICE V.RAMASUBRAMANIAN

AND

HONOURABLE SRI JUSTICE P. KESHAVA RAO

Writ Petition No.45761 of 2018

ORDER: *(per V. Ramasubramanian, J)*

Challenging the action of the respondents in blocking the ITC to which the petitioner is entitled, the dealer has come up with the above writ petition.

2. Heard Mr. Aditya Kumar, learned representing Mr. Jakkula Sridhar, learned counsel for the petitioner and Mr. J. Anilkumar, learned special standing counsel for the Department.

3. On 17-12-2018, we directed the learned standing counsel to get instructions. Today, he submitted that the petitioner claimed Transitional Relief (TGST) to the tune of Rs.1,88,13,191/-. But unfortunately, the ITC was not carried forward in the return filed in June, 2017. But later, the dealer filed TRAN-1 claiming the amount. This amount represents TDS covered by Form No.501. The dealer has now filed a revised return.

4. But, according to the respondents, assessments are pending from 01-05-2013 and that the blockage of ITC was partly due to the failure of the petitioner to make a claim in the return for June, 2017.

5. But, now a revised return has been filed. Since the revised return has been filed in October, 2017 itself, the problem of the petitioner could have been redressed, if the assessment had been

completed or at least if the matter has been looked into. Since that has not been done, we dispose of the writ petition with the following directions:

1) The Assessing Officer shall first scrutinize the revised return and ascertain whether the Form-501 TDS certificates are genuine. If they are genuine, the petitioner is entitled to ITC and the same could be released. The Assessing Officer shall complete the exercise within a period of two weeks;
2) The Assessing Officer shall also complete the assessment, after following due process of law within a month, since the matter is already one year old.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

Date: 03-01-2019

Ksn