**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-20725-2019 (O&M)
Date of decision: 26.11.2019

Highway Industries Ltd.

.....Petitioner

versus

Union of India and another

....Respondents

CORAM:Hon'ble Mr. Justice Jaswant Singh
Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Jagmohan Bansal, Advocate for the petitioner.

Mr. Sunish Bindlish, Advocate for the respondents.

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GIRISH AGNIHOTRI, J.

The petitioner namely Highway Industries Limited, Ludhiana, is a Limited concern. The pleaded case of the petitioner *inter alia* is that the petitioner is engaged in manufacture and sale of engineered automotive parts. The petitioner presently is registered at Ludhiana under the GST Act, 2017. The petitioner has three manufacturing units which, prior to 01.07.2017, were duly registered with Central Excise Authorites. As per Excise ER-I returns, Cenvat Credit of inputs and capital goods to the tune of Rs.13,61,06,767/- was lying unutilized and out of which, the petitioner could only avail Rs.3,05,14,635/-. The amount of Rs.10,55,92,132/- could not be transferred to electronic credit ledger. It is also the case of the petitioner that on 28.08.2017, the petitioner loaded its TRAN-I, but, unfortunately, a sum of Rs.3,05,14,635/- could be carry forwarded, even though, actual amount of credit was Rs.13,61,06,767/- which resulted into non-transfer of ITC Rs.10,55,92,132/-

on the portal. The petitioner submits that on realizing mistake, it approached the GST helpline vide e-mail dated 30.08.2017, but, no response has been received from the petitioner.

The petitioner in the writ petition has referred to various documents and correspondence. However, for the sake of brevity, learned counsel for the petitioner submits that the petitioner has neither received any reply from the department, nor their GST Portal for filing the TRAN-1s Return had been opened and hence, the input tax credit accrued under earlier Taxing statutes could not be carried forward under the GST regime. The petitioner during the course of hearing, relied on the judgment passed by this Court in "**CWP-30949-2018** titled as **Adfert Technologies Pvt. Ltd. vs. Union of India and others"**, decided on 04.11.2019. It is contended that in view of the directions issued in the aforementioned judgment, respondents may kindly be directed to permit the petitioner to file or revise, where already filed incorrect TRAN-1s either electronically or manually statutory Form(s) TRAN-1s on or before 30.12.2019.

Upon notice issued by this Court on 29.07.2019, respondents have put in appearance.

Counsel for the respondents concede that the matter is covered by judgment dated 04.11.2019, passed in "**CWP-30949-2018** titled as **Adfert Technologies Pvt. Ltd. vs. Union of India and others,".** Counsel for the respondents further points out that the date for filing or revising the earlier filled incorrect TRAN-1 has been extended by the Department till 31.12.2019.

Counsel for the petitioner has further informed the Court that the respondent-authorities in spite of the judgments passed by this Court as well as

Gujarat and Delhi High Courts, have not permitted the benefit of unutilized credit in terms of the judgments by not opening the relevant portal or filing of the manual TRAN-I forms. He states that the Hon'ble Delhi High Court, on raising of similar grievance, has passed an order dated 16.10.2018 in **Indusind Media Communications Ltd. & Anr. vs. Union of India & Ors [W.P.(C) 8691/2018]**. For ready reference, the operative portion of the said interim order is reproduced here below:-

> *It is highlighted that the reflection of Tran-I credit in GSTR-3 is essential as it would ultimately impact the availability of credit for the entire duration – both transitional credit and input credit for the period 01.07.2017 onwards. Learned counsel submits that unless appropriate directions are given to the respondents, it is likely to face severe adverse financial crisis because in the absence of credit, it would have to pay cash throughout the country to the tune of Rs.37 crores.*
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> *The GSTR-3B form – in the relevant table dealing with eligible ITC, talks of total ITC available; ITC reversed and the net ITC available. As the deadline for completing this form and availing the credit is 20.10.2018, the respondents are hereby directed to permit the petitioners to fill the GSTR-3 form manually in a manner, as to permit it to claim a credit, subject to the final outcome of the proceedings.*
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> *It is clarified that in the GSTR-3B form, the petitioner can claim transitional as well as the post 01.07.2017 input tax credit.*
>
> *List on 23.01.2019.*
>
> *Dasti under signatures of the Court Master.*
>
> *S. RAVINDRA BHAT,*
>
> *J A. K. CHAWLA, J*

OCTOBER 16, 2018

With the able assistance of learned counsel for the parties, we have gone through the order of Division Bench (supra) relied upon by the petitioner.

Learned counsel for the respondents have not been able to seriously dispute the fact that the present case is also covered by the aforesaid judgment of this Court dated 04.11.2019 as also the interim order reproduced here above.

Accordingly, the present writ petition is allowed in the same terms as "**CWP-30949-2018** titled as **Adfert Technologies Pvt. Ltd. vs. Union of India and others",** decided on 04.11.2019**.** However, in view of the fact that it is also not disputed before us that the date of filing of the manual returns has been extended upto 31.12.2019, the operative part of the directions shall read as under:-

> *"Accordingly, we direct respondents to permit the petitioners to file or revise where already filed incorrect TRAN-1 either electronically or manually statutory Form(s) TRAN-1 on or before 31.12.2019."*

It is further directed that the petitioner shall be permitted, in the alternative to claim or enter the unutilized credit in question in their GST-3B forms to be filed for the month of January, 2020 either electronically or manually.

No order as to costs.

(JASWANT SINGH)
JUDGE

(GIRISH AGNIHOTRI)
JUDGE

26.11.2019
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Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No