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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 21.11.2019

\+ W.P.(C) 3961/2019

SHATABDI SWITCHGEARS AND CONTROLS PVT .LTD ..... Petitioner

Through: Mr. Ruchir Bhatia, Sr. Standing counsel.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Abhinav S. Raghvendra, Sr. Counsel for UOI/R-1.
Mr. Anuj Aggarwal with Mr. Ankit Monga, Advs. for R-3.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

VIPIN SANGHI, J (Oral):

1. Despite repeated opportunities, no counter affidavit has been filed on behalf of the respondents. We therefore, close the right of the respondent to file counter affidavit.

2. The present petition under Article 226 of the Constitution of India seeks the following reliefs:

"i) Issue a writ of mandamus or any other writ, order or direction in the nature thereof in the nature thereof thereby directing the Respondents to open the Portal to enable the Petitioner to file its claim of tax credit on the stock held on 30.6.2017 in Form Trans-1 which the Petitioner could not do for reasons beyond its control due to glitches in the system of the Respondents or alternatively direct the Respondents to reflect the amount of credit filed by the Petitioner manually in the electronic credit ledger of the Petitioner;

ii) Issue a writ of a writ of declaration or any other writ, order or direction in the nature thereof declaring that the Rule 117 of the CGST Rules, 2017 ultra vires section 140 and 174 of the CGST Act, 2017;

iii) for such further and other reliefs, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

3. The case of the Petitioner as set out in the petition is that it is engaged in the business of industrial automation and low voltage switchgear products and is registered under the Central Goods and Service Tax Act, 2017 (hereinafter referred as 'CGST Act'). Petitioner was entitled to transition of credit on the stock held as on 30.6.2017 in terms of Section 140(3). The last date for filing the claim of transition of credit in Form GST Tran-1 was 27.12.2017. The last date to submit details of outward supply was extended to 31.12.2017.

4. In the month of December, 2017, Petitioner made several attempts to upload its claim for transition of credit in Form GST TRAN-1, but was

unsuccessful on account of technical glitches on the Common Portal. On inquiry from other professionals, the Petitioner came to know that even on the last date, i.e., 27.12.2017, the system was repeatedly showing errors and therefore, a large number of assessees had been unable to upload the claim for transition of credit in Form TRAN-1. Further, though last date to submit details of outward supply in Form GST TRAN-1 was extended to 31.12.2017, however, the last date for filing the claim of transition of credit in Form GST TRAN-1 was not extended. On 28.12.2017, the Petitioner submitted a representation with Respondent No. 3 requesting them to "*feed the amount of credit at backend through your system*". The said letter also enclosed details of the credit available to the Petitioner under the provisions of Section 140 of the Act.

5. As a large number of assessees were unable to file their claim of transitional input credit by 27.12.2017 due to glitches in the system, the date for filing TRAN-I was extended vide Circular No. 39/13/2018- GST dated 03.04.2018. In terms of the said Circular, Petitioner sent letter dated 10.04.2018 to Respondent No. 3, bringing it to their notice that despite the extension of the time period for filing of TRAN-1, "*the credit is not reflected on the website of the Department*". Pursuant to the said letter, the Petitioner sent reminders dated 10.10.2018 and 25.03.2019. However, no action in this regard has been taken by the Respondents. Aggrieved by the inaction of the Respondents, the Petitioner has filed the present writ petition.

6. Learned counsel for the Petitioner, submits that if the petitioner is permitted to re-file its TRAN-1 form, the Petitioner would drop its challenge

to the statutory provisions and schemes.

7. Petitioner relies upon several decisions of this Court including ***M/s Blue Bird Pure Pvt. Ltd vs Union of India and Ors,*** **2019 SCC OnLine 9250** and ***Sare Realty Projects Private Limited vs Union Of India,*** **W.P. (C) NO. 1300/2018,** decided on 01.08.2018, to submit that the Court has granted reliefs to several other similarly placed parties.

8. We have considered the submissions of the parties. The nature of reliefs sought in the present petition and the facts disclosed herein are fully covered by the decision of this Court in ***M/s Blue Bird Pure Pvt. Ltd*** (supra) decided on 22.07.2019, wherein the Court had directed the respondents to either open the online portal or to enable the petitioner to file the rectified TRAN-1 electronically or accept the same manually. The said decision has also been followed by us in ***M/s Aadinath Industries & Anr vs Union of India***, **W.P. (C) 9775/2019**, decided on 20.09.2019; ***Lease Plan India Private Limited vs Government of National Capital Territory of Delhi and Ors***, **W.P.(C) 3309/2019**, decided on 13.09.2019; ***Godrej & Boyce Mfg. Co. Ltd. Through its Branch Commercial Manager vs Union of India,*** **W.P.(C) 8075/2019**, decided on 15.10.2019.

9. The factual position in the present case is not any different and thus, we allow the present petition and direct the respondents to either open the online portal so as to enable the petitioner to file the Form TRAN-1 electronically, or to accept the same manually on or before 09.12.2019.

10. Respondents are directed to process the petitioner's claim in accordance with law once the Form GST TRAN–I is filed. Accordingly, the petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 21, 2019/*Pallavi*