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

Date of Decision:- 20.09.2019

+ W.P.(C) 9775/2019

M/S. AADINATH INDUSTRIES & ANR. Petitioners

Through: Mr. Lalit Gupta, Advocate with Mr.
Siddhartha Arora, Advocate

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Ravi Prakash, CGSC with Mr.
Farman Ali, Advocate for R-1
Harpreet Singh, Senior Standing
Counsel with Ms. Suhani Mathur
Advocate for R-2 to R-4

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

SANJEEV NARULA, J. (Oral):

C.M. No. 40379/2019 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

WP(C) No. 9775/2019

3. The present writ petition has been filed seeking directions to the Respondents to allow Petitioner No. 1 to file Form GST TRAN-1 for availing Input Tax Credit (ITC) and consequently, give Input Tax Credit to

the Petitioner No. 1.

4. The case of the Petitioner, as set out in the petition is that on 27.12.2017, Petitioner No. 1 company attempted to file Form GST TRAN - 1, on the GST common portal for availing Input Tax Credit (ITC) of Rs. 4,15,516/- in the Electronic Credit Ledger. However, an error was prompted stating that the registered service tax number of the Petitioner No. 1 was invalid. Thereafter, Petitioner No. 1 requested for an inquiry on the portal itself, by creating a "Ticket" in response to which, the "helpdesk" forwarded an email dated 12.01.2018, calling upon Petitioner No. 1 to provide its GSTIN. The requisite information was furnished by the Chartered Accountant of the Petitioner No. 1 on 13.01.2018. Thereafter, several subsequent attempts were made to file Form GST TRAN-1 through the portal, however, the same error message was repeated. Moreover, every time Petitioner No. 1 requested for an inquiry, they were met with an automated response. Complaint was also made with the Superintendent Commissioner (GST). The original cut-off date for filing the form GST TRAN-1 was 31.01.2019, which was subsequently extended to 31.03.2019 by the Central Board of Indirect Taxes and Customs vide Notification No. 48/2018.

5. On 28.03.2019, Petitioner no. 1 received an email forwarded by the Chief Commissioner Unit Central Excise Delhi stating that in the mail received from Nodal Officer, GSTN in respect of TRAN-1 and TRAN-2 cases received in the CGST Delhi Zone in terms of the Standard Operating Procedure (SOP) of IT Grievance Redressal Mechanism, the Petitioner No. 1 has been listed as one of the parties whose case has been approved for

giving another opportunity for filing TRAN 1 by the ITGRC Committee. On 29.03.2019, when Petitioner No. 1 again attempted to file Form GST TRAN - 1, on the portal, yet again the same error stating that the Registration No. was not valid, was displayed on the screen. Thereafter, Petitioner no. 1 addressed a letter to the Commissioner (GST), detailing the aforesaid exchange of correspondences, pursuant to which a letter was addressed to the Principal Commissioner (CGST) West stating that the grievance of Petitioner no. 1 had been forwarded and the matter had been brought to the cognizance of DGGST, New Delhi. Since the Petitioner no. 1's grievance remained unaddressed, the Petitioners have preferred the present writ petition.

6. It is contended by the Petitioners that they cannot be deprived of the legitimate due Input Tax Credit of Rs. 4,15,516/- on account of the technical glitches persisting at the common portal.

7. Learned counsel for the petitioners submits that the present case is covered by the decision of this Court in the case of *M/s Blue Bird Pure Pvt. Ltd. v. Union of India & Ors* 2019 SCC OnLine 9250, wherein this Court was faced with a similar fact situation as in the present case. The Petitioner in that case had also filed the TRAN-I Form within the prescribed period. However, on account of an inadvertent error, the columns had not been correctly filled up and consequently, the ITC was not granted to the petitioner. The petitioner's request for opening the portal to enable him to again file TRAN-1 electronically or to manually file revised TRAN-I Form was also not entertained. The said petition was allowed referring to the

decisions in ***Bhargava Motors v. Union of India***, dated 13.05.2019 in WP(C) 1280/2018 and ***Kusum Enterprises Pvt. Ltd v. Union of India***, 2019-TIOL-1509-HC-DEL-GST issuing the following directions:

“15. Accordingly, this Court directs the Respondents to either open the online portal so as to enable the Petitioner to again file the rectified TRAN-I Form electronically or accept the manually filed TRAN-I Form with the correction on or before 31st July, 2019. 16. The Petitioner will correspondingly be permitted to thereafter file the return in TRAN-2. The penalty and interest for the late filing of GSTR-3B will be waived off in view of the above directions, subject, of course, to the Petitioner being permitted to and in fact filing the rectified TRAN-I Form as directed.”

8. Learned counsel for the respondents fairly does not dispute that the present case is covered by the decision in ***M/s Blue Bird Pure Pvt. Ltd.*** (supra). We may additionally add that the credit standing in favour of an assessee is property and the assessee could not be deprived of the said property save by authority of law in terms of Article 300 (A) of the Constitution of India. There is no law brought to our notice which extinguishes the said right to property of the assessee in the credit standing in their favour.

9. Thus, we direct the respondent to either open the online portal so as to enable the petitioner to file the rectified TRAN-I Form electronically, or to accept the same manually with correction, on or before 02.10.2019.

10. The petitioner's revised claim be processed in accordance with law once

the corrected GST TRAN-I Form is filed. The petition stands disposed of in the aforesaid terms.

SANJEEV NARULA, J

VIPIN SANGHI, J

SEPTEMBER 20, 2019

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