IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1087 of 2020

==

Topsel Marketing Pvt. Ltd. a registered Company having its registered Office at 25, Ganesh Chandra Avenue, Kolkata-700013 having its Branch Office at Chouehray Market, Bhatta Bazar, Purnea-854301 through the Branch Manager Namely Prem Chand Prasad male aged about 52 Son of Kapur Chand Prasad Resident of B-2-440 THEC Colony, Bhurwa, Ranchi-834004.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance Government of India, New Delhi.
2. The Principal Chief Commissioner of Central Tax, Bihar, Patna.
3. The Joint Commissioner of State Tax, Patna North, Patna.
4. The Assistant Commissioner of Central Tax, Audit Circle, Kidwaipuri, Patna.
5. The Nodal Officer, (IT Grievance Redressal Mechanism), Central Goods and Service Tax, Purnea.

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate

For the Respondent/s : Mr.Vikash Kumar, SC-11

Mr. (Dr.) K. N. Singh, A.S.G.

Mr. Alok Kumar Agrawal, Advocate

==

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 07-12-2020

The petitioner has prayed for following relief(s):

> "1(a) For issuance of a writ or order or direction in the nature of mandamus upon the respondents to grant one opportunity to the petitioner to rectify the inadvertent human error having taken place in filling up the declaration from TRAN-1 filed under section 140 of the Central Goods And service Tax Act, 2017 (hereinafter referred to as the Act for short) by the

petitioner;

(b) For further issuance of a writ or order or direction in the nature of mandamus upon the respondents to enable the petitioner and facilitate uploading of declaration in form TRAN-2 in terms of rule 117 of the Central Goods And Service Tax Rules, 2017 (hereinafter referred to as the rules for short);

(c) Fur issuance of a writ or order or direction I the nature of mandamus further upon the respondents to process both the declarations in form TRAN-1 and TRAN-2 and facilitate extension of the related benefits of transitional credit to the petitioner in terms of section 140 of the act and rule 117 of the rules;

(d) For further holding and a declaration that the provision of transitional credit made available under section 140 of the act is beneficial in nature and cannot be withdrawn for reasons of mere technicality and inadvertent human errors failing which the very purpose and object of such legislation would stand defeated;

(e) For grant f any other relief of reliefs to which the petitioner is found entitled to in the facts and circumstances of the case."

Learned counsel for the petitioner prays that petitioner shall be content if a direction is issued to the respondent authorities i.e. Respondent Nos. 3 to 5 to consider the petitioner's request which the petitioner shall be making, within two weeks, seeking rectification of Form TRAN-1, already filed.

We allow the prayer made by the petitioner.

As such, as prayed for, the petition is disposed of reserving liberty to the petitioner to file a representation before the authorities concerned within a period of four weeks from today, whereafter the same shall be considered and decided by the authorities concerned, as per law, expeditiously and preferably within a period of four weeks thereafter.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits. All issues are left open.

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/-PKP

AFR/NAFR	
CAV DATE	
Uploading Date	10.12.2020
Transmission Date	