IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.01.2020
CORAM
THE HONOURABLE MR. JUSTICE C.SARAVANAN
Writ Petition No.186 of 2020

M/s.Beauty Wares,
Represented by its S.Sivakumar,
No.396, Sathy Road, Ganapathy,
Coimbatore - 641 006. ... Petitioner

Vs.

1.The Assistant Commissioner of CT & CE,
Coimbatore II Division,
Coimbatore Commissionerate,
I44L, ELGI Building, Trichy Road,
Coimbatore 641 018.

2.The Goods and Service Tax Network
East Wing, 4th Floor,
World Marlk-1, Aerocity
New Delhi - 110 037.

3.The Commissioner of Central Taxes
and Central Excise
Coimbatore Commissionerate,
617, A.T.D. Street, Race Course,
Coimbatore 641 018.

4.The Goods and Services Tax Council,
Tower - II, 5th Floor,
Jeevan Bharati Building,
New Delhi 110 001. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondents to reopen the TRAN-1 and allow the petitioner to avail the missed out credit of Rs.51,09,655/- by rectifying the TRAN-1, either through the GST portal or manually, in order to utilise the said credit for paying future GST liabilities in form GSTR 3B being filed by the petitioner.

For Petitioner : Mr.Jaikumar
For Respondents : Mr.K.S.Ramasamy, CGSC
for R1 & R3

ORDER

The petitioner has filed the writ petition for a mandamus to permit him to avail credit on the closing stock of input footwear available by rectifying Trans-I filed by them earlier. The petitioner has been sending representations while he has not yielded any response from the respondents. The petitioner has also send representation to the fourth respondent.

2. The learned counsel for the respondents 1 & 3 submits that the Nodal Officer is located in Nungambakkam namely, Principal Commissioner of GST at Nungambakkam who can decide as to whether the credit can be allowed.

3. On the other hand, the learned counsel for the petitioner submits that the issue is no longer res integra and is covered by a decision of Punjab and Haryana High Court held in "Adfert Technologies Pvt. Ltd., - Vs- Union of India and others" and the following two decisions of the Delhi High Court as detailed below:-

(i) Lease Plan India Pvt Ltd., - Vs- Government of National Capital Territory of Delhi and others

(ii)M/s.Blue Bird Pure Pvt. Ltd., -Vs- Union of India and others

4. Under these circumstances, the petitioner is given liberty to make appropriate representation to the Nodal officer namely Principal Commissioner of GST at Nungambakkam, citing these decisions. If such application is made by the petitioner, the said Nodal officer shall consider and pass appropriate orders within a period of 30 days from the date of receipt of this order. Needless to state, before passing any order, the petitioner shall be heard.

5. With the above directions, the writ petition stands disposed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

drl

To

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+1cc to Mr.Jaikumar, Advocate sr.2408
+1cc to Mr.K.S.Ramasamy, Advocate sr.1220

W.P.No.186 of 2020

ssv(co)
nr 20/02/2020