BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.03.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD) No.4045 of 2020

Jaganathan Engineering Works
represented by its Proprietor Subbaiah Pillai Narayanan,
SF.No.22/2A, Aathikudi Village,
Vengoor Post,
Thiruverambur,
Trichy - 620 013. ... Petitioner

/vs./

1.CGST Nodal Officer for IT Grievance Redressal,
O/o. the Principal Commissioner of GST and Central Excise,
GST Bhawan, No.26/1, Mahatma Gandhi Road,
Chennai 600 034.

2.The Commissioner of GST and Central Excise,
No.1, Williams Road,
Cantonment,
Trichy 600 001.

3.Goods and Services Tax Council,
represented by Special Secretary,
Office of the GST Council Secretariat,
5th Floor, Tower II, Jeevan Bharthi Building,
124, Janapath, Commaught Circus,
New Delhi 110 001.

4.Union of India,
represented by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi 110 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing 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-1 form with the correction on or before 31.03.2020 for claiming the transitional credit.

For Petitioner : Mr.J.Prasanna Kumar

For R1 to R3 : Mr.R.Aravindan
Standing Counsel

For R4 : Mr.S.Jeyasingh
Central Government Standing Cousnel

ORDER

The Writ Petition is filed in the nature of mandamus seeking a direction to open the online portal so as to enable the petitioner to again file the rectified Tran-I form or in the alternative to accept his application manually with necessary correction on or before 31.03.2020 to claim transitional credit.

2.The petitioner is a proprietorship company having its office and factory at Trichy, engaged in the manufacturing of boiler components to the BHEL and other major heavy engineering industries. It is registered with the Excise Department and under the Central Excise Act, 1944. It is also registered with the Goods and Services Act, 2017 (CGST Act) with Reg.No.33AAEPN4703D1Z9 with effect from 01.07.2017. The registration certificate was issued in Fort GST Reg-06 dated 02.08.2017. It is an assessee in the office of the GST and Central Excise, the Thiruverambur Range, Trichy. To ensure smooth transition from old Central Excise, Service Tax, VAT to the GST and to file total tax, a transitional period was fixed by the Government as provided under Section 140 of CGST Act, 2017, which provides for allowing the credit of taxes paid.

3.In the affidavit filed by the petitioner in support of this petition, it was claimed that the petitioner filed its Central Excise Monthly returns and they availed of CENVAT Credit under the Central Excise Act, 1944 and at the time of transiting from Central Excise to GST, the CENVAT amount was Rs.26,27,955/-. Under GST Act, the Central Excise and the Service Tax on the purchase of raw materials and on input services were allowed to be carried forward to the GST Act. It had been stated that the fourth respondent vide notification number 49/2019-Central Tax dated 09.10.2019 has provided a window enabling the taxpayers to file the Form Tran-I till 31.03.2019. The period was extended till 31.12.2019. Since the GST Portal/Website was opened only on 15.10.2019, it did not permit the petitioner to revise the TRAN –

I form. Therefore, the present writ petition has been filed seeking to re-open the website/portal to enable him to file the revised TRAN-I form in the alternative way to accept his application with suitable amendments manually.

4.My attention is drawn to the fact that a similar issue had came up for consideration before this Court in W.P.(MD) No.21320 of 2019 (Angamuthu Amuthavel Vs. The Commercial Tax Officer, Kulithalai and others) dated 14.10.2019. In the said order, a learned Single Judge had observed as follows:

> "*6.Admittedly, there are technical glitches in uploading the returns/forms in the portals of the respondents. The reply from the respondents that they will look into the issue and update the petitioner soon and further requested the petitioner to wait for some time, would go to show that there are technical glitches even beyond the last date of filing. In fact, the records reveal that the petitioner has approached the respondents in time, but due to technical glitches, he could not succeed in his attempt to upload the files. In such circumstances, I am of the considered view that the case of the petitioner is fully covered by the decision of this Court in Tara Exports's case. Admittedly, the portal is not opened due to technical glitches as admitted by the respondents dated 22.01.2018, 26.01.2018 and 22.04.2019. Therefore, I am inclined to grant the relief as sought in the writ petition.*
>
> *7.Accordingly, the writ petition is allowed and the respondents are directed either to extend the date of submitting the declaration electronically in FORM GST TRAN-1 or re-open and reinstate the facility of online or manual submission of TRAN-1 in so far as the petitioner is concerned. No costs."*

5.In view of the reasons stated above, a similar direction is given to the respondents to extend the date of submitting the declaration electronically in Fort GST TRAN-1, insofar as the petitioner is concerned.

6.The writ petition is allowed. In pursuance of this order, after obtaining a copy of this order, the petitioner may make a short visit to the office of the first respondent/CGST Nodal Officer for IT Grievance Redressal, GST Bhawan, No.26/1, Mahatma Gandhi Road, Chennai - 600 034 on 16.03.2020 and give a representation in writing on or before 20.03.2020 and on receipt of such representation, the first respondent is directed to comply with the direction given in this order to enable the petitioner to file his returns on or before 31.03.2020. No costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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TO

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North Block,
New Delhi 110 001.

+1 CC to M/s.S.JEYASINGH, Advocate (SR-10902[F]
+2 CC to M/s.J.PRASANNAKUMAR, Advocate (SR-10918[F]
+1 CC to M/s.R.ARAVINDAN, Advocate (SR-10956[F]

W.P.(MD) No.4045 of 2020

NS(CO)
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