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

+ **W.P.(C) 7411/2020**

GSP POWER SYSTEM PVT. LTD.

..... Petitioner

Through: Mr.Rajesh Mahna with Mr.Ramanand
Roy, Mrs.Sonia Shama and
Mr.Mayank Kouts, Advocates.

versus

**COMMISSIONER OF GOODS AND SERVICES TAX
DEPARTMENT OF TRADE AND TAXES & ANR.**

..... Respondents

Through: Mr.Satyakam, ASC for Govt. of NCT
of Delhi.

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Date of Decision: 05th October, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

C.M.No.24798/2020

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.7411/2020

1. The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video

conferencing.

2. Present writ petition has been filed challenging the rejection by respondent authorities of petitioner's request for correction of the return filed for first quarter of Year 2017-18 and refusal to give statutory forms under Central Sales Tax (Delhi) Rules.

3. Petitioner further seeks a direction to the respondent authorities to allow the petitioner's revision of returns for the year 2017-18 as per the provisions of DVAT Act and Rules.

4. Learned counsel for the petitioner states that the petitioner failed to mention the details of Inter-State branch transfers for the first quarter of Year 2017-18 in the Form 2A uploaded on the DVAT website while filing his returns. He further states that petitioner requested the respondent no.2 to grant permission to revise the aforesaid returns but the said request was rejected.

5. He submits that action of the respondent no.2 of not allowing revision of details of requirement of form 'F', is perverse in law as it is contrary to the provisions of the DVAT Act and Central Sales Tax (Delhi) Rules which permit issuance of forms.

6. He relies upon the judgment of this Court in WP(C) No.8709/2018 whereby this Court had directed the respondent to release the concerned form 'F' within two weeks. He, however, points out that SLP preferred against the said judgment has been admitted and the matter is pending before the Supreme Court.

7. On the other hand, Mr. Satyakam, learned Additional Standing counsel for the respondents submits that the decision of this Court in *M/s. Ingram Micro India Pvt. Ltd. v. Commissioner DT&T & Anr., W.P. (C)*

No. 8272/2015 is under challenge before the Supreme Court in Civil Appeal No. 4573/2017 and the Supreme Court has granted leave in the said matter vide order dated 27th March, 2017. He also points out that this Court rendered decisions in several similar cases, including **W.P. (C) No. 2633/2017, M/s. Indian Oil Corporation Ltd. v. Commissioner, VAT** decided on **11th April, 2017**, which have been appealed against in the Supreme Court and the Supreme Court has stayed the operation of the judgment of this Court.

8. Mr. Satyakam points out that in the light of the interim orders passed by the Supreme Court, while deciding another writ petition i.e. **Ingram Micro India Ltd. v. Commissioner, Department of Trade and Taxes and Anr., W.P. (C) No. 8435/2018**, decided on 04th December, 2018, this Court issued directions for issuance of segregated and separate ‘C’ Forms. However, the directions issued by this Court were suspended till the Civil Appeals before the Supreme Court were pending.

9. Same is the position in the decision of this Court in **Allied Automation Engineering Services Pvt. Ltd. v. Commissioner of Trade and Taxes, W.P. (C) No. 9474/2018** decided on 10th September, 2018, in **M/s. Samsung C&T Pvt. Ltd. v. The Commissioner, Trade & Taxes, & Anr., W.P. (C) No. 4092/2017** decided on 15th February, 2019, in **E.I. Dupont India Private Limited v. Commissioner, VAT, Delhi & Anr, C.M. No. 47356/2018 in W.P. (C) No. 4952/2017** decided on 27th February, 2019 and **C G Power And Industrial Solutions Limited vs Department of Trade and Taxes & Ors., W.P. (C) No. 3024/2019** decided on 15th January, 2020.

10. Mr. Satyakam contends that this Court has recently in similar matters been either adjourning matters or is allowing the petition but suspending the

relief till the civil appeals pending in the Supreme Court are decided.

11. Having heard the counsel for the parties, this Court is of the view that no useful purpose would be served by keeping the petition pending. Consequently, this Court directs the respondent no.2 to allow the amendment sought by the petitioner in its return of first Quarter for the Financial Year 2017-18. However, this direction shall remain suspended till the Civil Appeals pending before the Supreme Court, taken note of hereinabove, are decided and this direction shall abide by the decision that the Supreme Court renders.

12. With the aforesaid direction, present writ petition and pending application stand disposed of.

13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

**OCTOBER 05, 2020
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