HIGH COURT OF CHHATTISGARH, BILASPUR

WPT No. 119 of 2020

- M/s Dharam Industries (A Proprietorshiip Firm) Having Its Office Plot No. 31, Phase- II, Siltara Industrial Growth Centre, Dharsiwa, Raipur, Chhattisgarh, Through Its Sole Proprietor, Shri Bal Raj Chadda, Son Of Late Shri Tilak Raj Chadda, Presently Aged Around 73 Years, Resident Of B-69, Green Wood City, Sector 45, Gurugram (Haryana) Pin- 122003

---- Petitioner

Versus

1. Union Of India Through The Revenue Secretary, Ministry Of Finance, Department Of Revenue, North Block, Central Secretariat, New Delhi- 110001

2. Central Board Of Excise And Customs Through The Secretary, Ministry Of Finance, North Block, Central Secretariat, New Delhi- 110001

3. The Assistant Commissioner Of Central Excise And Central GST Division-I, Delhi- I, 17-B- IAEA Building, Indraprastha Esatate, New Delhi 110002

4. The Assistant Commissioner Of Central Tax And Central Excise, Customs, Goods And Service Tax Central Excise Building, Tikrapara, Dhamtari Road, Raipur, Chhattisgarh

5. The GST Council Through The Additional Secretary, GST Council Secretariat, 5th Floor, Tower II, Jeevan Bharti Building, Janpath Road, Rajeev Chowk, New Delhi 110001

---- Respondents

For Petitioner	:	Shri Hari Agrawal, Advocate
For Respondents	:	Shri Tarun Dhar Diwan, on behalf of ASG Shri Ramakant Mishra

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Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12.01.2021

Heard

1. The grievance of the petitioner is that the petitioner was initially operating a unit at Delhi wherein certain CENVAT credit benefit was availed by the petitioner. Subsequently, the entire unit was transferred to Raipur, C.G. Therefore, the petitioner claimed the CENVAT credit benefit which was given

to him at Delhi and accordingly it was allowed on 27.06.2017 (Annexure P-3). Thereafter, the petitioner sought for CENVAT credit in the State of C.G. but because of technical glitches the GST portal could not be opened and accordingly the submission of form could not be made, therefore time and again the petitioner made application to the GST portal and has made correspondence eventually on 20.08.2017 (Annexure P-7) and sought to resolve the issue so that the penalty or interest is not charged for no fault of the petitioner. Subsequently, the same was followed on October, November and December, 2017. Thereafter, mail was sent on 04.12.2018 (Annexure P-10) and lastly on 15.03.2020 (Annexure P-11) a physical application was filed to get the CENVAT credit amount of excise duty on 30.06.2017 which was not refunded. It is further contended that till today because of technical glitches the issue cannot be resolved and eventually it would have a final liability on the petitioner for no fault of his.

2. He further refers to the judgment of the co-ordinate Court in WPT No. 33 of 2018 and judgment of Bombay High Court in *Heritage Lifestyles and Developers and Private Limited V. Union of India* reported in **2020 SCC OnLine Bom 2397.**

3. Learned counsel for the respondent would submit that since the application is already pending before the authority the same will be considered.

4. Perused the documents and heard learned counsel for the parties.

5. Considering the documents which is filed, it appears that because of technical glitches the CENVAT credit form could not be filled and it could not be submitted to the GST Portal. Further, taking into the principle laid down by this Court and Bombay High Court, it is directed that respondents shall reopen the portal within 2 weeks from the date of receipt of a copy of this order. In the event, if it do not open, they will entertain the application of the petitioner manually and pass the order on it after due verification of the

credit as claimed by the petitioner. They shall also ensure that the petitioner is allowed to pay his taxes on the regular electronic system which is being maintained for use of the credit.

6. With such observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Jyoti