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

Reserved on: 21st December, 2020
Pronounced on: 27th May, 2021

\+ **W.P. (C) 4234/2020**

M/S INTEGRATED PROJECT LOGISTICS PRIVATE LIMITED
THROUGH MR. MANOJ ROY DIRECTOR ..... Petitioner

Through: Mr. Sanjay Bansal, Advocate.

versus

UNION OF INDIA ..... Respondent

Through: Mr. Anil Soni, CGSC with Mr. Devesh Dubey, Advocate for Respondents No.1/UOI.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

[VIA VIDEO CONFERENCING]

SANJEEV NARULA, J.

1. The present petition was heard along with the other batch of petitions relating to disputes and issues pertaining to filing of form GST TRAN-1 (hereinafter "**TRAN-1 Form**"). However, since the facts of the present case are slightly distinct from the remaining cases in the batch, it is considered appropriate to pass a separate order in the present petition.

2. The Petitioner- M/s Integrated Project Logistics Private Limited in this case seeks a writ of certiorari and other directions to the Respondents to

process the TRAN-1 Form filed by the Petitioner in order to enable him take benefit of the input credit of Rs. 5,85,82,611/- which is stated to be available with him as on 1st July, 2017.

3. The Petitioner had an eligible CENVAT credit of Rs. 5,85,82,611/- as per the service tax return for the period ending 30th June, 2017. The Petitioner sought to carry forward the same into the GST regime by filing the TRAN-1 Form in terms of Section 140(8) of the CGST Act, 2017 (hereinafter "**the Act**"). Several attempts were made in this regard, with the last one on 23rd October, 2017. However, on account of technical glitches, the same were not successful. As a result, the Petitioner submitted the TRAN-1 Form manually on 1st March, 2019. Thereafter, the TRAN-1 Form was processed but the input tax credit was not reflected for which the Petitioner approached the Respondents vide letter dated 2nd July, 2019, but to no avail. Along with the petition, the Petitioner has annexed a screenshot as Annexure- 'D' to the petition to evidence the error shown in processing the TRAN-1 Form. Petitioner submits that his case falls in the category which is covered by Rule 117(1A) of the CGST Rules, 2017 (hereinafter "**the Rules**"), as the Petitioner could not submit the TRAN-1 Form, due to technical glitches. Petitioner further submits that it is entitled to distribute the input tax credit to other locations in terms of Section 140(8) of the Act.

4. We have perused the record. The Petitioner has annexed documents which would show that an attempt was made to file the TRAN-1 Form and thereafter the Petitioner was left with no other option but to file the same manually.

5. It appears that although the Petitioner has been able to file the TRAN-1 Form but has been unable to claim the credit. From the communication dated 1st March, 2019 placed on record, it appears that the Petitioner's complication has arisen on account of an error in filling up the TRAN-1 Form. The Petitioner earlier had a centralised registration under the service tax regime and was therefore entitled to transfer the CENVAT credit under Section 140(8) of the Act. While filling up the TRAN-1 Form, details had to be filled according to the distribution documents with the GSTIN of the receiver. Petitioner tried to transfer all the credit to one registration i.e., Tamil Nadu GST Registration. Later, the Petitioner understood that the CENVAT credit was to be transferred to Delhi ISD registration and thereafter the same was to be distributed to other centres by issuing distribution documents according to the respective GSTIN of the receiver of ITC Central Tax.

6. From the documents placed on record, it emerges that although the Petitioner is entitled to distribute the input tax credit available with it as on 1st July, 2017 amongst its branches/locations, however, the same has not been possible on account of technical problems on the GST network. The input tax credit is lying deposited, and the Petitioner has already manually filed the TRAN-1 Form, which has not been processed effectively.

7. In view of the afore-noted facts, in our view, the Petitioner is entitled to the benefit given by this Court to several other taxpayers in cases such as

Aadinath Industries and Ors. v. Union of India & Ors.,[1] ***Aman Motors v. Union of India & Ors.***,[2] and ***A.B. Pal Electricals Pvt. Ltd. v. Union of India and Ors.***[3] Further, since the case of the Petitioner squarely falls under the category of 'technical difficulties on the common portal' as is evidenced by the screenshot annexed at Annexure- 'D' to the writ petition, the Petitioner would be eligible to take the benefit of Rule 117(1A) of the Rules. This would even hold true if the narrow interpretation proposed by the Revenue in ***SKH Sheet Metal Components v. Union of India and Ors.***,[4] which was rejected by this Court therein, was to be accepted here i.e., the extended timelines under sub-rule (1A) of Rule 117 would only be applicable those taxpayers who face 'technical difficulties on the common portal'. The present factual scenario is similar to that which came up before this Court in ***The Tyre Plaza v. Union of India***.[5] The Petitioner therein was also unable to file its TRAN-1 Form electronically and ultimately resorted to sending a manual copy of its TRAN-1 Form and the Court directed the Respondents to either open the GST portal or to accept the TRAN-1 Form filed manually by the Petitioner.

8. Accordingly, the present petition deserves to be allowed and accordingly the Respondents are directed to process the TRAN-1 Form filed by the Petitioner manually in accordance with law on or before 30th June, 2021. The Respondents shall be at liberty to verify the genuineness of the claims

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[1] 2019[30] G.S.T.L. 478.
[2] [2020] 78 GSTR 421(Delhi).
[3] 2020[33] G.S.T.L. 8.
[4] 2020[38] G.S.T.L. 592.
[5] 2019[30] G.S.T.L. 222, Pending SLP (***Union of India & Ors. v. The Tyre Plaza***, SLP(C.) No. 15397/2020)

made by the Petitioner and thereafter allow the Petitioner to avail the benefit of input tax credit and distribute the same to its locations, in accordance with law.

9. The petition is allowed in the aforesaid terms.

SANJEEV NARULA, J

MANMOHAN, J

MAY 27, 2021
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