

Item No.2.

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 26.07.2022

DELIVERED ON:26.07.2022

CORAM:

**THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE BIVAS PATTANAYAK**

**M.A.T. No.16 of 2022
With
I.A. No.CAN 1 of 2022
With
I.A. No.CAN 2 of 2022**

**Union of India.
Vs.
Baljit Iron Private Limited & Ors.**

Appearance:-

**Mr. K. K. Maiti,
Mr. Sukalpa Seal**

..... for the appellant.

Mr. Akshat Agarwal

... for the respondents.

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, J.)

Re: I.A. CAN 1 of 2022

1. This application has been filed to condone the delay of 643 days in filing the instant appeal.

2. We have heard Mr. K. K. Maiti, learned counsel appearing for the appellant and Akshat Agarwal, learned counsel appearing for the respondents.

3. We are satisfied with the reasons assigned in the affidavit filed in support of the application. Though we find the reasons to be not very convincing, we exercise discretion in the matter on account of the reasoned order passed by the Hon'ble Supreme Court dated 22nd July, 2022.

4. Accordingly, the delay in filing the instant appeal is condoned.

5. The application being I.A. CAN 1 of 2022 is allowed.

Re: M.A.T. No.16 of 2022

6. This appeal by the revenue is directed against the order in W.P. No.24020(W) of 2019, which was disposed of by a common order passed by the Learned Single Bench dated 4th March, 2020.

7. The Hon'ble Supreme Court in a recent decision in the case of Union of India & Anr. - Vs. - FILCO Trade Centre Pvt. Ltd. & Anr. in Special Leave Petition (C) No(s).32709-32710/2018 dated 22nd July, 2022 has issued comprehensive direction with regard to availing of transitional credit through TRAN 1 and TRAN 2. The order passed by the Hon'ble Supreme Court is as follows:-

"Having heard learned Additional Solicitor General, learned counsel appearing for different States and learned counsel appearing for different private parties and having perused the record, we are of the view that it is just and proper to issue the following directions in these cases:

- 1. Goods and Service Tax Network (GSTN) is directed to open common portal for filing concerned forms for availing Transitional Credit through TRAN - 1 and TRAN - 2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022.*

2. *Considering the judgments of the High Courts on the then prevailing peculiar circumstances, any aggrieved registered assessee is directed to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee (ITGRC).*
3. *GSTN has to ensure that there are no technical glitch during the said time.*
4. *The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.*
5. *Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.*
6. *If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims.*

The Special Leave Petitions are disposed of accordingly.

Pending applications, if any, also stand disposed of. "

8. In the light of the above direction issued by the Hon'ble Supreme Court, no orders are required in this appeal. Accordingly, the appeal along with connected application (I.A. No.CAN 2 of 2022) stand disposed of in terms of the order passed by the Hon'ble Supreme Court.

9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM, J)

I agree,

(BIVAS PATTANAYAK, J.)

NAREN/PALLAB (AR.C)