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M.A.T. 1230 of 2022
With
I.A. No.CAN 2 of 2022

Haldia Petrochemicals Ltd.
Vs.
Commissioner of State Taxes & Ors.

Mr. Rahul Dhanuka,
Mr. Harsh Choudhary ... for the appellant.

Mr. Bhaskar Prasad Banerjee
Mr. Abhradip Maity
Ms. Pooja Basak
.... for the CGST & CX Authority

Mr. Anirban Ray, Ld. G.P.
Mr. T.M. Siddique
Mr. Debasis Ghosh
Mr. Debraj Sahu...............for the State

This intra- Court appeal is directed against the order passed by the learned Single Bench dated 1st July, 2022. Various grounds have been raised by the appellant and also various contentions have been advanced by the learned Government Counsel. We need not labour much to take a decision in this appeal in the light of the order passed by the Hon'ble Supreme Court 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**. In the said decision the Hon'ble Supreme Court has issued comprehensive direction with regard to availment of transitional credit through TRAN 1 and TRAN 2. The order passed by the Hon'ble Supreme Court reads 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."*

In the light of the directions issued by the Hon'ble Supreme Court, it would be well open to the appellant to revise its TRAN-1 and TRAN-2 returns and the verification can be done by the respondents/department.

The learned advocate for the appellant submitted that there are certain observations made by the learned Single Bench, which may be an obstacle for the appellant to avail the appropriate benefit. The appellant need not have any apprehension since the Hon'ble Surpeme Court has passed the above order, which supersedes all directions issued earlier by various High Courts. Therefore, the observations made by the learned Single Bench in the impugned order will have to stand vacated in its entirety.

Accordingly, the appeal and the connected application (I.A. No. CAN 2 of 2022) are disposed of in terms of the order passed by the Hon'ble Supreme Court and liberty is granted to the appellant to file appropriate revised return in accordance with the said directions.

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.)

(Hiranmay Bhattacharyya , J.)