IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12989 OF 2021

M/s. Paras Krushi Kendra
House no. 347, Mansingka Building,
Jamner Road, Pachora,
Dist. Jalgaon
Through its Partner
Chetan Sunil Bothra
Age : 34 years, Occ. Business
R/o. As above .. Petitioner

Versus

1. The Union of India,
Through its Secretary
Minister of Finance Dept. of Revenue
Central Board of Indirect Taxes and Customs
New Delhi.

2. The Commissioner
Central GST and Central Excise,
Nashik Commissioner, Nashik.

3. The Deputy Commissioner,
Goods and Services Tax GST Bhavan
Jalgaon.

4. The Assistant Commissioner of Sale Tax
JAG-VAT-D-006
GST Bhavan, Ganpati Nagar
Jalgaon.

5. The Superintendent
CGST and Central Excise,
Chalisgaon Range, Jalgaon, Division. .. Respondents

Mr. Alok M. Sharma, Advocate for the Petitioner.
Mr. A. G. Talhar, ASG for Respondent No. 1.

Mr. Parikshit Dawalkar, Advocate a/w Mr. Pratik Kothari, Advocate for Respondent Nos. 2 and 3.
Mr. S. P. Tiwari, AGP for Respondent No. 4.

CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.

DATED : 25th APRIL 2022.

ORAL JUDGMENT (PER R. D. DHANUKA, J.) :-

. Mr. Sharma, learned counsel for the petitioner seeks liberty to delete respondent No. 6 from the cause title of the petition. Leave to amend is granted. Amendment be carried out forthwith. Re-verification is dispensed with.

2. Rule. Mr. Talhar, learned ASGI waives service for respondent No. 1. Mr. Dawalkar, learned counsel waives service for respondent Nos. 2 and 3. The learned A.G.P. waives service for respondent No. 4. Rule made returnable forthwith.

3. By this petition filed under Article 226 of the Constitution of India the petitioner has prayed for writ of mandamus thereby directing the respondents to permit the petitioner to submit its revised form GST-TRAN-1 return electronically on the common portal and allow the petitioner to upload the revised form GST-TRAN-1 as per the provisions of the Rule 120-A of the Central Goods and Service Tax Rules 2017 and for other reliefs.

4. It is the case of the petitioner that due to technical difficulties faced on 27.12.2017, the petitioner was unable to login on the portal and file the application form as required to avail the transitional credit. The petitioner has addressed various letters to the Deputy Commissioner of GST placing its technical difficulties on record and to permit the petitioner to file transitional credit by opening the portal.

5. In the identical facts, this Court has observed in the judgment delivered on 13.04.2022 in Writ Petition No. 1690 of 2019 in case of Ambica Fertilizers through partner Vs. The Union of India and others with other connected matters issued various directions while disposing of the said batch of petitions.

6. In our view, cause of justice would be sub-served if we passed similar order in this petition.

7. We accordingly pass the following order.

8. In our view, the interest of justice would be served if we allow the petitioner to correct Form TRAN-1 and to file Form TRAN-2 without prejudice to the rights and contentions of both the parties. The respondents shall consider the issue whether the Form TRAN-1 and other forms that would be filed/corrected by the petitioner can be entertained in accordance with the provisions of section 140 of the

Central Goods and Services Tax Act, 2017 and Rule 117 (1) of the Central Goods and Services Tax Rules, 2017 or not.

9. Jurisdictional Assessing Authority shall also consider all the issues that would be raised by the petitioner including the issue on merits simultaneously. The authority shall also decide the effect of the judgments of this Court in the case of Heritage Lifestyles and Developers and Private Limited (Supra) and also Nelco Limited (supra) relied upon by the learned counsel for the parties, respectively. The said authority shall take appropriate decision within four weeks from today. This order shall be communicated within one week from the date of passing of the order. If the case of the petitioner is accepted by the authority, the reliefs as sought by the petitioner shall be granted within four weeks from the date of allowing such application. If the order is adverse against the petitioner, the petitioner would be at liberty to file appropriate proceedings.

10. Writ petition is disposed of in aforesaid terms. Rule is made absolute in aforesaid terms. No order as to costs.

11. Parties to act upon the authenticated copy of this order.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE

P.S.B.