

BASAVRAJ
GURAPPA
PATIL

Digitally signed by
BASAVRAJ GURAPPA
PATIL

Date: 2022.05.06
16:23:08 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.44 OF 2019**

M/s. Ashoka Buildcon Ltd. Petitioner
Vs.
The Union of India & Ors. Respondents

WRIT PETITION NO.520 OF 2022

Hira Movers Petitioner
Vs.
The Union of India & Ors. Respondents

WRIT PETITION NO.519 OF 2022

M.M.Polymers Pvt. Ltd. Petitioner
Vs.
The Union of India & Ors. Respondents

WRIT PETITION NO.4478 OF 2022

Rohan Standox Autolack Petitioner
Vs.
The Union of India & Ors. Respondents

WRIT PETITION NO.4535 OF 2022

Ravichandra Mahila Magasvargiya
Aoudyogik Sahakari Sanstha Maryadit Petitioner
Vs.
The Union of India & Ors. Respondents

WRIT PETITION NO.9675 OF 2019

M/s.S.S.Mirje and Company Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.716 OF 2019**

M/s.Chavan Motor Div. (India) Pvt. Ltd.	 Petitioner
Vs.	
The State of Maharashtra and Ors.	 Respondents

**WITH
WRIT PETITION NO.4922 OF 2019**

M/s.Madhavji and Co. Thru Sole Prop. Kamlesh Madhavji	 Petitioner
Vs.	
The Union of India and Anr.	 Respondents

**WITH
WRIT PETITION (St.) NO.3202 OF 2020**

Chamadia Trading Through Partner S.R.Chamadia	 Petitioner
Vs.	
The Union of India and Anr.	 Respondents

**WITH
WRIT PETITION (ST.) NO.3886 OF 2020**

Kleenair Systems P. Ltd.	 Petitioner
Vs.	
The Union of India and Ors.	 Respondents

**WITH
WRIT PETITION NO.7589 OF 2019**

A Raymond Fasteners India Pvt.Ltd.	 Petitioner
Vs.	
Union of India and Ors.	 Respondents

**WITH
WRIT PETITION NO.7960 OF 2019**

Sandvik Asia Pvt. Ltd. Petitioner
Vs.
The Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.6998 OF 2018**

Nelco Limited Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.8254 OF 2019**

M/s.Ankush Enterprises Through
Its Partner Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.12694 OF 2018**

M/s.Trimurti Enterprises Thru
Its Sole Proprietor Mr.Yashwant
Vitthal Gunjal Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.8856 OF 2018**

Tatanet Services Limited Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.11686 OF 2019**

M/s.Shakti Developers Through

Ramesh N. Patel Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.8518 OF 2019**

AGS Transact Technologies Ltd. Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.8906 OF 2018**

M/s.Inabata India Pvt.Ltd. Through
Its Authorised Signatory Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.11545 OF 2018**

Vertiv Energy Pvt. Ltd. Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.10351 OF 2019**

M/s.Ferrocure Machines Pvt.Ltd. Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.14416 OF 2018**

Mohite Motors Pvt. Ltd. Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.1749 OF 2019**

Mohite Auto Services, Kolhapur Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.14323 OF 2018**

Danvita (India) Pvt.Ltd. Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.3347 OF 2020**

Sai Point Automobiles Pvt.Ltd. Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.3083 OF 2020**

Plywood Stock Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.2883 OF 2020**

National Laminates Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION (St.) NO.29929 OF 2019**

Kiran Auto Wheels Pvt.Ltd. Petitioner
Vs.
Union of India and Ors. Respondents

WITH

WRIT PETITION NO.3506 OF 2020

Pearl Surface Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.3222 OF 2020**

Navkar Traders Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.848 OF 2021**

Core Panels Thru.Proprietor
Gourav Patwari Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.3220 OF 2020**

Shree National Plywood Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION (St.) NO.29943 OF 2019**

Plasma Panels Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.3080 OF 2020**

Plaza Fancy Hardware Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.3172 OF 2020**

Attitude Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION (St.) NO.29984 OF 2019**

Pritam Plywood Thru. Proprietor
Maneklal Dangi Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.2937 OF 2020**

Nirmal Pran Engineering Pvt.Ltd.
Thru M/s.Aarti Katyal Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.2872 OF 2020**

Super Plywood Thru. Proprietor
Vinod Tater Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.847 OF 2021**

Kanchan Auto Pvt.Ltd.
Thru. Director Vimal Bolia Petitioner
Vs.
Union of India and Ors. Respondents

**WITH
WRIT PETITION NO.3082 OF 2020**

Ply Cottage Thru Partner
N.Madrecha Petitioner
Vs.
Union of India and Ors. Respondents

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.287 OF 2021

Antony Commercial Vehicles Pvt. Ltd. Petitioner
Vs.
The Union of India & Ors. Respondents

WRIT PETITION NO.2303 OF 2019

Aegis Plymer Petitioner
Vs.
State of Maharashtra & Ors. Respondents

WRIT PETITION NO.3277 OF 2021

Repro Graphics Pvt. Ltd. Petitioner
Vs.
The Union of India & Ors. Respondents

WRIT PETITION NO.3861 OF 2021

PLA Components Petitioner
Vs.
The Union of India & Ors. Respondents

WRIT PETITION NO. 582 OF 2019

Madhav Engineers Pvt. Ltd. ... **Petitioner**
Versus
The Union Of India & Ors. ... **Respondents**

WITH
WRIT PETITION NO. 326 OF 2020

AFFEM Rolling Pvt. Ltd. ... **Petitioner**
Versus

The Union Of India & Ors. ... Respondents

**WITH
WRIT PETITION NO. 661 OF 2020**

Indofil Industries Limited ... Petitioner
Versus
The Union Of India & Ors. ... Respondents

**WITH
WRIT PETITION NO. 395 OF 2019**

Surface India Floorings Pvt. Ltd. ... Petitioner
Versus
The Union Of India & Ors. ... Respondents

**WITH
WRIT PETITION NO. 564 OF 2019**

Sion Steels ... Petitioner
Versus
The Union Of India & Ors ... Respondents

**WITH
WRIT PETITION NO. 2797 OF 2019**

Samir Ceramics Pvt. Ltd. ... Petitioner
Versus
The Union Of India & Ors. ... Respondents

**WITH
WRIT PETITION NO. 1136 OF 2019**

Superior Plasto Chem. ... Petitioner
Versus
The Union Of India & Anr. ... Respondents

**WITH
WRIT PETITION NO. 1189 OF 2019**

Deepak Enterprises ... Petitioner
Versus
The Union Of India & Anr. ... Respondents

WITH

WRIT PETITION NO. 1326 OF 2019

Economic Laws Practice	...	Petitioner
Versus		
The Union Of India & Anr.	...	Respondents

**WITH
WRIT PETITION NO. 2878 OF 2021**

Efficient Engineering	...	Petitioner
Versus		
The Union Of India & Anr.	...	Respondents

**WITH
WRIT PETITION NO. 1691 OF 2019**

Faurecia India Pvt. Ltd.	...	Petitioner
Versus		
The Union Of India & Anr.	...	Respondents

**WITH
WRIT PETITION NO. 3354 OF 2019**

Parekh Integrated Services Pvt. Ltd....		Petitioner
Versus		
The Union Of India & Anr.	...	Respondents

**WITH
WRIT PETITION NO. 2284 OF 2019**

Wipro Enterprises Pvt. Ltd.	...	Petitioner
Versus		
The Union Of India & Anr.	...	Respondents

**WITH
WRIT PETITION NO. 3036 OF 2019**

Arvind Beauty Brands Retails Pvt. Ltd....		Petitioner
Versus		
The Union Of India & Anr.	...	Respondents

**WITH
WRIT PETITION NO. 1881 OF 2019**

Rockdude Impex Private Limited ... **Petitioner**
Versus
The Union Of India & Anr ... **Respondents**

WITH
INTERIM APPLICATION NO. 376 OF 2019
IN
WRIT PETITION NO. 1881 OF 2019

Rockdude Impex Pvt. Ltd. ... **Applicant**
Versus
The Union Of India & Anr. ... **Respondents**

WITH
WRIT PETITION NO. 2512 OF 2019

Pinnacle Piling (India) Pvt. Ltd. ... **Petitioner**
Versus
The Union Of India & Anr. ... **Respondents**

WITH
WRIT PETITION NO. 2725 OF 2019

Jay Precision Products India Pvt. Ltd. ... **Petitioner**
Versus
The Union Of India & Anr. ... **Respondents**

WITH
WRIT PETITION NO. 2845 OF 2019

C. Abhaykumar & Co. ... **Petitioner**
Versus
The Union Of India & Anr. ... **Respondents**

WITH
WRIT PETITION NO. 3102 OF 2019

SSB Alloys and Steels Pvt. Ltd. ... **Petitioner**
Versus
The Union Of India & Anr. ... **Respondents**

WITH

WRIT PETITION NO. 3235 OF 2019

Sunjeet Communications Pvt. Ltd. ... **Petitioner**
Versus
The Union Of India & Anr. ... **Respondents**

WITH
WRIT PETITION NO. 3437 OF 2019

Kripa Electronics (India) Pvt. Ltd. ... **Petitioner**
Versus
The Union Of India & Anr. ... **Respondents**

WITH
WRIT PETITION NO. 31 OF 2020

Kiran Autopoint LLP ... **Petitioner**
Versus
The Union Of India & Anr. ... **Respondents**

WITH
WRIT PETITION NO. 3608 OF 2019

NUV Industries ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WITH
WRIT PETITION NO. 3610 OF 2019
WITH
WRIT PETITION NO. 3605 OF 2019

Symcom Impex Pvt. Ltd. ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WITH
WRIT PETITION NO. 490 OF 2019

Chheda International Pvt. Ltd. ... **Petitioner**
Versus

The Union Of India & Ors.

... Respondents

Sr. Nos	Matter No.	Appearance
48	WP/44/2019	Mr.Ishan Patkar i/b. Roshani Naik, Adv. For Petitioners. Mrs. M.P. Thakur, AGP/Resp.
50	WP/582/2019 WP/2512/2019 WP/7589/2019 WP/1691/2019, WP/2725/2019 & WP/326/2020 WP/395/2019 WP/3437/2019 WP/2845/2019 WP/3354/2019 WP/2284/2019 and WP/3036/2019 WP/661/2020 WP/2797/2019 WP/31/2020 WP/1189/2019 WP/1326/2019	Mr. Pradeep Jetly Sr.Advocate a/w. Mr. Jitendra Mishra & Mr. Dhananjay B. Deshmukh, Advocate for Respondent Mr. Ishan Patkar a/w. Yash Dhond i/b. Jindagi Shah, Adv. For Petitioner Mr. Himanshu Takke, AGP/State Mr. j.B. Mishra a/w. Mr. Ram Ochani, for Resp. Mr. Karan Adik a/w. Mr. Ram Ochani, for Resp Mr. Vijay H. Kanthari a/w. Ram Ochani for Res Mr. Dushyant Kamar (AGP) Ms. Deepali Kamble, Adv. For Petitioner. Smt. Jyoti Chavan, AGP Ms.P.S. Cardozo & Ms. Maya Majumdar, for R. Ms.P.S. Cardozo & Ms. Maya Majumdar, for R. Mr. Pradeep Jetley, Sr.Adv. & Ms. Maya Majumdar, Adv. For Respondent. Mr. J.B. Mishra & Ms. Maya Majumdar, Adv. For Respondent. Mr. Ishaan Patkar a/w. Yash Dhond i/b. Roshni Naik, Adv. For Petitioners. Mr. Sriram Sridharan, Adv. For peetitioner. Mr. Dushyant Kamar AGP/State and Smt. Jyoti Chavan AGP Mr. Swapnil a/w. Mr. Siddharth

	& 3235/2019	Chandrashekhar, Adv. For Resp. And Mr. Dushyant Kamar AGP/State Mr. Pradeep Jetley Sr. Advocate a/w. Mr. Jitendra B. Mishra and Mr. Dhanjaya B. Deshmukh, Adv. For Respondents. And Mr. Dushyant Kumar, AGP/State Mr. V.A. Sonpal (Spl.Counsel) a/w. Mr. Himanshu Takke, AGP/State Mr. Jitendra Motwani & Mr. Chirag Shetty i/b. Economic Law Practice for Petitioners Mr. Bharat Raichandani a/w. Mr. Mahesh Raichandani & Mr. Rishabh Jain i/b. UBR Legal, Adv. For Petitioners.
51	WP/2303/2019	Mr. Dushyant Kumar AGP/State Mr. Rahul Thakur a/w. Mr. Kevin Shah i/b. C.B. Thakur, Adv. For Petitioners.
54	WP/9675/2019 WP/4922/2019, WP/8254/2019 WP/12694/2018 WP/8856/2018 WP/7960/2019 WP/6998/2018 WP/8856/2018 & WP/11545/2018 WP/3347/2020 & WP/3202/2020 WP/7589/2019	Mr. Rahul Thakur a/w. Mr. Kevin Shah i/b. C.B. Thakur, Adv. For Petitioners. Mr. Prakash Shah a/w. Mr. Mihir Mehta i/b. PDS Legal, Adv. For Petitioner. Mr. Karan Adik, Adv. Mr. Ishan Patkar a/w. Yash Dhond i/b. Jindagi Shah, Adv. For Petitioner. Mr. Ishan Patkar a/w. Yash Dhond i/b. Ms. Roshani Naik, Adv. For Petitioner. Mr. Parag A. Vyas a/w. Mr. Dharmesh Joshi & Ms. Karuna Yadav i/b. Mr. A.A. Ansari, Adv. For Resp.No.1/UOI Mr. Sriram Sridharan, Advocate for petitioner. Ms. Deepali Bapat & Sonali Bapat,

	WP/14416/2018, WP/1749/2019, WP/14323/2018	Adv. For Petitioners. Anweshika Singh, Adv. For Petitioner Mr. Bharat Raichandani a/w. Mr. Mahesh Raichandani & Rishabh Jain i/b. UBR Legal, Adv. For Petitioner. Mr. Karam Adik, Adv. Mr. Ishaan Patkar a/w. Yash Dhond i/b. Meet Anil Sawant, Advocate for Petitioners.
56	WP/287/2021	Mr. D.H. Nadkarni a/w. V.S. Biradar i/b. Legal Solutions
58	WP/1075/2021	Smt. Jyoti Chavan AGP/State
72	WP/3277/2021	Ms. Kiran Doiphode, Adv. For Petitioner
79	WP/3861/2021	Mr. P.S. Patkar i/b. PLA Components, Adv. For Respondent/UOI Mr. Himanshu Takke (AGP for State/R.No.6)
96	WP/520/2022	Mr. Sachin Chitnis, Mr. Kiran Chavan & Mr. Viraj Reshamwala i/b. CENEX Services, Adv. For Petitioner. Mr. J.B. Mishra a/w. D.B. Deshmukh for Resp.
121	WP/4478/2022	Mr. Ishaan Patkar a/w. Mr. Yash Dhond i/b. Alaksha Legal, Adv. For Petitioner Mr. M. P. Thakur, AGP for Resp/State
122	WP/4535/2022	Mr. Ishaan Patkar a/w. Mr. Yash Dhond i/b. Jindagi Shah, Adv. For Petitioner Mr. M. P. Thakur, AGP for Resp/State

CORAM: S.V. GANGAPURWALA &

M. G. SEWLIKAR, JJ.

DATED : MAY 2, 2022

P.C.

1 In all these matters, the Petitioners, either could not file TRAN-1 Form because of the technical glitches and/or the request for amendment/revision/modification of TRAN-1 Form was not allowed.

2 The submissions were made by the learned Counsel for the Petitioners relying on the judgment of the Division Bench of this Court in the case of *Heritage Lifestyles and Developers and Pvt. Ltd. Vs. The Union of India & Ors.*¹ that human errors can be allowed to be corrected and if because of technical glitches, TRAN-1 Form could not be filed, opportunity can be given to file the same.

3 Mr.Jately, learned Senior Advocate and other Advocates for the Department submit that the period prescribed under Section 117 of the CGST Act is mandatory. They relied upon the Division Bench judgment of this Court in the case of *NELCO Ltd. Vs. Union of India and Ors.*² and submit that after the time stipulated is over, the

¹ 2020 SCC OnLine Bom 2397

² 2020 SCC OnLine Bom 437

Petitioners do not have right to file TRAN-1 Form and or seek amendment/ revision/ modification of the said Form.

4 The Petitioners also relied upon the recent judgment of the Division Bench of this Court at Aurangabad (Coram - R.D. Dhanuka and S.G.Mehere,JJ.) in Writ Petition No.1690 of 2019 with connected Writ Petitions decided under the order dated 13th April 2022. The Division Bench of this Court, in the said matter at Aurangabad, passed the following order:

“10. It is not in dispute that the challenge to the virus of section 140 and Rule 117 is negatived by this Court in the case of Nelco Limited (supra).

11. Insofar as judgment of this court in the case of Heritage Lifestyles and Developers and Private Limited (supra) relied upon by the petitioners is concerned, a perusal of the said judgment indicates that the petitioner in that case was allowed to make such claim if the petitioner was otherwise eligible for credit of the amount. Considering those facts, this Court in the said judgment directed the respondents to accept the TRAN-1 filed by the petitioner and to give the due of input tax credit in the electronic credit ledger/input tax credit of the petitioner within two weeks from the date of the order. We are not inclined to accept the submissions of the learned counsel for the petitioners that by the said judgment, this Court had held that the provisions of section 140 and 117 are directory and not mandatory.

12. In our view, the interest of justice would be served if we allow the petitioner to correct Form TRAN-1 in Writ Petition No.1609/2019 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.

13. 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.”

5 The Division Bench of this Court had directed the jurisdictional assessing authority to consider all the issues that would be raised by the Petitioners including the issue on merits simultaneously. The Authority was also directed to decide the effect of the judgments of this Court in the case of Heritage Lifestyles and Developers and Pvt. Ltd. (supra) and also Nelco Ltd. (supra) relied upon by the respective parties.

6 We dispose of the present Writ Petitions in terms of the said order dated 13th April 2022 delivered at Aurangabad in the case of Ambica Fertilizers (supra) with connected Writ Petitions.

7 We further clarify that, if in case, the show cause notices are issued while adjudicating the same, the directions and observations in the present order shall also be considered by the Authority.

8 In view of the above, the Petitioners are allowed to file and correct TRAN-1 and TRAN-2 Form. In case it is not possible to file the same on-line, it shall be filed manually.

9 The same shall be filed and/or corrected preferably within 3 weeks.

10 The Authority shall pass orders upon the same as per the observations in the order, preferably within six weeks.

11 The Writ Petitions stand disposed of accordingly. No costs.

(M. G. SEWLIKAR, J.)

(S.V. GANGAPURWALA, J.)