IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2506 OF 2021

Okay Paper Products Pvt. Ltd. ….Petitioner

V/s.

The Union of India and Ors. …Respondents

Mr. Rahul Thakar a/w Mr. Kevin Shah i/b Mr. C.B. Thakar for Petitioner.
Mr. J.B. Mishra i/b Mr. P.S.Patkar for Respondent Nos. 1 and 5 to 7.
Ms. Jyoti Chavan, AGP for Respondent Nos.2 to 4.

CORAM : K.R. SHRIRAM &
PRITHVIRAJ K. CHAVAN, JJ.
DATED : 20th JUNE, 2022

P.C. :

1. Paragraph no.12, 13 and 14 of the petition reads as under :

> *12. As regards, the unavailed cenvat credit on capital goods is concerned, the GST Consultant of the Petitioner filed the Form GST TRAN-1 on GST portal on 26th September 2017 vide ARN No.AA270917137289L.*
>
> *13. Though the GST consultant had filed the TRAN-1 vide the above ARN, the Petitioner did not receive the CGST transitional credit in its electronic credit ledger. The Petitioner could not comprehend any error/technical glitch which may have occurred on the GST portal.*
>
> *14. Thereafter, the Petitioner made enquiries with the GST Consultants and after much deliberation it was advised to the Petitioner to file revised TRAN-1. Therefore, the Petitioner tried to file the revised TRAN-1 form on the last date of 27th December 2017. However, due to the portal outage, the Petitioner could not file the revised Form GST TRAN-1 on the GST Portal.*

2. Shri. Thakar submitted that petitioner received a letter from Respondent No.6 stating that he has been informed that the case is not

involving any technical issue. Petitioner, therefore is at a loss as how to get Cenvat Credit on Capital goods.

3. Though petition was served and is getting listed since 21st March 2022, no reply has been filed. Therefore, the averments in paragraph nos.12, 13 and 14 are uncontroverted.

4. In our view, therefore to hold petitioner as someone who did not meet the deadline to avail the Cenvat Credit on Capital goods will be too harsh a view to take. Even for a moment if we proceed on the basis that the case did not involve any technical issue as alleged by Respondent No.6 the fact is petitioner filed Form on 26th September 2017.

5. In the circumstances, we would allow petitioner to file required Form by claiming Cenvat Credit and respondent shall within 2 weeks open online portal/provide a link to petitioner for filing the Form. If that is technically not feasible and such a communication is received from respondent within two weeks from the date this order is getting uploaded, petitioner then shall file a request in detail in the requisite physical Form and respondent shall consider the same and decide whether petitioner is entitled to Cenvat Credit as claimed by petitioner and if so, factor that in ascertaining petitioner's GST liability. We would only add that if respondent finds that petitioner is not entitled to Cenvat credit as claimed, it may take such steps as required

against petitioner in accordance with law. We also clarify that we have not opined on the merits of the Cenvat Credit or any other Credit as claimed by petitioner and same shall be considered by the appropriate authority on merits.

6. Petition disposed.

(PRITHVIRAJ K. CHAVAN, J.) **(K.R. SHRIRAM, J.)**