IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NOS.4409 & 4411 OF 2020
AND
W.M.P.NOS.5209 & 5213 OF 2020

(THROUGH VIDEO CONFERENCING)

M/s.SS Bright Steels,
Represented by its Managing Partner,
R.Saravanan,
S.F.No.483/2C, Sri Kanniga Garden,
Senthampalayam, P.G.Pudur Post,
Coimbatore - 641 107. ... Petitioner
in W.P.No.4409 of 2020

M/s.Saro Steels,
Represented by its Proprietor,
R.Saravanan,
No.54, Dr.Radhakrishnan Road,
Tata bad, Coimbatore - 641 012. ... Petitioner
in W.P.No.4411 of 2020

Vs.

1. The Union of India,
Represented by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi – 110 001.

2. The Assistant Commissioner,
Goods and Service Tax,
Division-Coimbatore II,
Coimbatore - 641 018.

3. The Nodal Officer,
Office of the Principal Commissioner,
GST and Central Excise,
G.S.T.Bhavan,
No.26/1, Mahatma Gandhi Road,
Chennai - 600 034.

4. The Central Board of Excise and Customs,
Ministry of Finance,
Government of Tamil Nadu,
North Block, New Delhi - 110 001.

5. Goods and Service Tax Network [GSTN],
East Wing, 4th Floor,
World Mark-I, Tower B,
Aerocity, New Delhi - 110 037. … Respondents in both W.Ps

Prayer in W.P.No.4409 of 2020:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to consider the petitioner's Form TRAN-1 and in the light of the bonafide attempts made by the petitioner as per circular dated 03.04.2018 and to give the petitioner transitional credit pertaining to GSTIN No:33ABMFS2176A1ZE within a stipulated period.

Prayer in W.P.No.4411 of 2020:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to consider the petitioner's Form TRAN-1 and in the light of the bonafide attempts made by the petitioner as per circular dated 03.04.2018 and to give the petitioner transitional credit pertaining to GSTIN No:33ALUPS7855G1ZC within a stipulated period.

For Petitioner (In both W.Ps)	: Mr.T.Saravanan
For Respondents (In both W.Ps)	: Mr.A.P.Srinivas Senior Standing Counsel

COMMON ORDER

The case of the petitioner is that the petitioner had attempted to transition the input tax credit on 28.08.2017 by uploading the TRAN-I. However, the petitioner encountered difficulties due to technical glitches in the web site and therefore could not successfully transition the credit for utilization.

2.The learned counsel for the petitioner submits that the petitioner had sent a representation dated 26.11.2019 inrespect of the TRAN-I returned filed on 30.08.2017. It is further submitted that the 5th respondent herein namely GST Network New Delhi by a reply dated 19.09.2017, informed the petitioner's that the issue has been resolved and if any error regarding the same persist, the petitioner can revert to the helpdisk.

3.The learned counsel for the petitioner had relied on certain circulars of the Board and the decision of this Court in W.P.No.22941 of 2018 and W.P.No.31541 of 2018 and order in W.P.No.9052 of 2019 dated 04.09.2018, 11.12.2018 and 16.07.2019 respectively. It is submitted that the petitioner's representation dated 26.11.2019 has not been disposed.

4.The learned counsel for the respondent on the other hand submits that there is no scope for maintaining the TRAN-I and therefore this writ petition is devoid of merits.

5.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

6.The amount which is to be transitioned by filing TRAN-I or TRAN-II as per Section 140 of the respective GST enactments read with Rule 117 of the respective GST rules is to be allowed.

7.The credit available under the provisions of the erstwhile Central Excise Act, 1944 read with CENVAT Rules, 2004 remaining un-utilized on the date of limitation of GST Act, 2017 for the Central and the State cannot be denied such credit and unless the law permits lapsing of such credit. If there was a successful transition in terms of Section 140 of the respective GST enactments read with relevant rules such credits would have been available for discharging tax liability.

8.As a matter of fact, the Hon'ble Division Bench of this Court recently in the case of Commissioner of GST and Central Excise, Assistant Commissioner of GST and Central Excise, Central Board of Excise and Customs, Principal Commissioner Vs. M/s.Bharat Electronics Limited vide order dated 18.11.2021 has granted relief to the dealers who have transitioned credit under the provisions of the GST enactments. Therefore, the learned Single Judge vide order dated 21.06.2021 in W.P.No.2937 of 2019. The Hon'ble Division Bench upheld the order granted relief to the petitioner with the following observations:-

> ''12.Thus, there seems to be a consistent view that if there is substantial compliance, denial of benefit of Input Tax Credit which is a beneficial scheme and framed with the larger public interest of bringing down the cascading effect of multiple taxes ought not to be frustrated on the ground of technicalities. In view of the above, we are

inclined to affirm the order of the learned Single Judge in directing the petitioner/respondent to enable the respondent herein to file a revised Form TRAN-I, by opening of the portal and that such exercise is to be completed within a period of 8 weeks from the date of issue this order.''

9.Considering the same, I am inclined to dispose this writ petition by directing the respondent to consider the petitioner's representation dated 26.11.2019 and dispose the same within a period of three months from the date of receipt of a copy of this order and in the light of the observations of the Hon'ble Division Bench of this Court in the above case.

10.Accordingly, these writ petitions stand disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Union of India, Ministry of Finance,
Department of Revenue,
North Block, New Delhi - 110 001.

2. The Assistant Commissioner,
Goods and Service Tax, Division-Coimbatore II,
Coimbatore - 641 018.

3. The Nodal Officer,
Office of the Principal Commissioner,
GST and Central Excise, G.S.T.Bhavan,
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North Block, New Delhi - 110 001.

5. Goods and Service Tax Network [GSTN],
East Wing, 4th Floor,
World Mark-I, Tower B,
Aerocity, New Delhi - 110 037.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.1901
+2ccs to Mr.T.Saravanan, Advocate, S.R.No.1353

W.P.Nos.4409 & 4411 of 2020 and
W.M.P.Nos.5209 & 5213 of 2020

PMK(CO)
PM/18/02/2022