BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **31.10.2022**

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).No.24665 of 2022

M/s.The Ramaraju Surgical Cotton Mills Limited,
Post Box;2, 119, 120, P.A.C.Ramasamy Raja Salai,
Rajapalayam, Virudhunagar-626 117,
Represented by N.Vijay Gopal,
The Chief Financial Officer. ... Petitioner

Vs.

The Additional Commissioner of
CGST and Central Excise,
Madurai Commissionerate,
Madurai. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondent to accept the FORM GST ITC 02A either by opening the common portal or by accepting it in the physical form or to allow the transfer of credit through GSTR-3B returns and enable the petitioner to transfer its credit of Rs.72,44,300/- as permitted by Rule 41 A of the Central Goods and Services Tax Rules, 2017.

For Petitioner : Mrs.Radhika Chandra Sekhar
For Respondent : Mr.N.Dilip Kumar
Senior Standing Counsel
Assisted by K.Prabu,
Junior Standing Counsel

ORDER

This writ petition is filed for a writ of Mandamus directing the respondent to accept the FORM GST ITC 02A either by opening the common portal or by accepting it in the physical form or to allow the transfer of credit through GSTR-3B Returns and enable the petitioner to transfer its credit of Rs.72,44,300/- as permitted by Rule 41 A of the Central Goods and Services Tax Rules, 2017.

2. The petitioner is running Surgical Cotton Mills Limited and a Registered Assessee under the Goods and Service Tax Act with Identification No.('GSTN') 33AAACT4380D1ZX. The contention of the petitioner is that until August 2021, the petitioner had ten registered additional places of business under its GSTN registration, apart from its principal place of business. In the month of August 2021, the petitioner added one more additional place of business in Annamaraja Nagar, Sankarankovil Road, Rajapalayam, as 11th additional place of business. Thereafter, the petitioner purchased capital goods in the 11th additional

place of business and availed Input Tax Credit on such capital goods up to the month of June 2022. The petitioner decided to obtain separate registration for its 11th additional place of business.

3. The Registration Certificate was issued on 21.06.2022. Simultaneously, the 11th additional place of business was removed from the list of additional places of business under the existing registration. After obtaining the new registration, on 20.07.2022, the Petitioner attempted to file GST ITC-02 for transferring the ITC of Rs.72,44,300/- to the new registration in proportion to the value of assets. However, GST portal did not permit the filing of the said form as the file option was disabled and a message was displayed, which reads as under:

> *“Declaration for transfer of ITC pursuant to registration under Sub-Section (2) of Section 25 can be filed within 30 days of grant of registration to transferee.”*

4. According to the petitioner, 30 days period was not over and the petitioner had attempted to file the prescribed form within the specified time limit. Since the portal had not permitted the petitioner to file said form, the Petitioner has filed this writ petition. The petitioner relied on the judgment rendered by High Court of Rajasthan in the case of ***Pacific***

Industries Limited Vs Union of India reported in ***(2022) 61 GSTL 592,*** wherein the same issued is dealt with.

5. The learned Senior Standing Counsel appearing for the respondent, on instruction, submitted that the petitioner had attempted to file on the last day of the 30 days period of limitation and hence the portal disabled the options.

6. Heard Mrs.Radhika Chandra Sekhar, Learned Counsel for the petitioner, Mr.N.Dilip Kumar, Learned Senior Standing Counsel, Assisted by K.Prabu, Learmed Junior Standing Counsel for the Respondent and perused the materials on record.

7. After hearing the rival submissions, it is seen that the time is still available, since the new registration certificate is on 21.06.2022 and the petitioner had attempted to file on 20.07.2022 and the period of limitation would be over the next day only. But the petitioner could not file the said form within 30 days because the portal did not allow the petitioner to upload the same. Therefore, this Court is of the considered

opinion that the petitioner is entitled to the relief. The petitioner is directed to submit a fresh petition before IT Grievance Redressal Committee. The said Committee shall consider the Petitioner's claim and pass orders in the light of High Court of Rajasthan in the case of ***Pacific Industries Limited Vs Union of India*** reported in ***(2022) 61 GSTL 592*** within a period of six weeks from the date of receipt of copy of this order. With the above direction, the writ petition stands disposed of. No costs.

31.10.2022

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Index :Yes/No
Internet : Yes/No

To

The Additional Commissioner of
CGST and Central Excise,
Madurai Commissionerate,
Madurai.

S.SRIMATHY, J.

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