IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.29514 of 2022
and
W.M.P.No.28890 of 2022

M/s.Roots Multi Clean Ltd.,
Rep. by its Director K.Ravi,
RKG Industrial Estate,
Ganapathy,
Coimbatore 641 006. .. Petitioner(s)

Vs.

1. The Principal Commissioner of CGST,
   No.6/7, ATD Street, Race Course Road,
   Coimbatore 641 018.

2. The Deputy Commissioner of GST,
   Coimbatore II Division/Range Officer,
   Coimbatore II A range, Coimbatore.

3. The Superintendent,
   Audit Circle II/Group IV,
   RAKAVIS Tower, 1065, Trichy Road,
   Ramanathapuram, Coimbatore. .. Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st respondent issued in GEXCOM/TECH/GST/1680/2022-TECH dated 23.08.2022 and quash the same as contrary to law, opposed to the principles of natural justice and further direct the 1st respondent to consider the application filed by the petitioner for condonation of delay of 26 days in taking the invoices in to books of accounts of the petitioner by following the Proviso to Section 140 (5) of the CGST Act, 2017.

For Petitioner(s) : Mr.M.A.Mudimannan

For Respondents(s) : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

The present writ petition is filed challenging the order dated 23.08.2022, whereby the petitioner's request for condonation of delay of 26 days to carry forward the transitional credit under the GST Act in terms of Section 140(5) of the CGST Act was rejected .

2. The petitioner was a dealer registered under erstwhile Central Excise Act and with the introduction of GST had obtained registration under the GST Act. The unavailed credit under Central Excise Act was sought to be transitioned in terms of Section 140 of the CGST Act. It is submitted that the application to transition the credit was made beyond 30 days from the appointed date, however within additional 30 days as permitted in terms of the proviso to sub Section 5 to Section 140 of the CGST Act. However, the impugned order has been passed by the 1st respondent after finding that the petitioner's claim for transition does not have merit and proceeded to reject the petition to condone the delay. It is further submitted that the impugned order has been passed without even affording an opportunity of hearing thereby violating principles of natural justice.

3. The learned counsel for the respondent would submit that the impugned order is valid and no prejudice would be caused inasmuch the petitioner in any view is not entitled to transitioning of credit. However on being pointed out that no personal hearing was granted the learned

counsel for the respondent would submit that the petitioner would be heard and orders would be passed afresh.

4. In view thereof the impugned order is set aside. The respondents are directed to pass orders afresh in accordance with law after affording the petitioner a reasonable opportunity of hearing.

5. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

09.04.2025

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp

To:

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MOHAMMED SHAFFIQ, J.

spp

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