

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2020

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

Writ Petition No.31285 of 2019

M/s. Guru Shoe Components and Company,
Rep. by its Partner - R.Rajkumar

.... Petitioner

Vs

1. Goods and Services Tax Council (GST Council)

Through Secretary, 5th Floor Tower,
II Jeevan Bharti Building,
Janpath Road Connught Place,
New Delhi-110001.

2. The Chairman,

Goods and Services Tax Net Work (East) Wing ,
4th Floor World Market, New Delhi 110037,
(Also) Having Office at GSTN - Chennai GST
Bhavan 26/ 1

3. The Commisisoner of Commercial Taxes ,

O/o. The Commercial Tax Department,
100 Feet Road, Ellaipillaichavadi,
Puducherry – 605005.

4. The Nodal Officer/Joint Commissioner of Commercial Taxes,

O/o. The Commercial Tax Department,
100 Feet Road, Ellaipillaichavadi,
Puducherry – 605005.

5. The Commercial Tax Officer ,

Office of the Commercial Tax Department,
100 Feet Road, Ellaipillaichavadi,
Puducherry - 605005.

... Respondents

Prayer: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus Directing the 5th Respondent to issue Use Name and Password for completing migration process on the GST Portal for uploading the return in GSTR - 1 GSTR - 3 and claim TRAN - 1 credit in there old Provisional ID.No. 34AADFG2604B1Z8 for the months of July and August 2017 and to deposit its tax without penalty and interest under section 50 of the Puducherry Goods and Services Tax Act 2017.

For Petitioner : Mr.A.N.R.Jeya Prathap

For Respondents :Mr.A.P.Srinivas
Senior Standing Counsel for R3 and R4
Mr. J. Kumaran
Additional Government Pleader for R5
Mr.V.Sundareswaran
Senior Panel Counsel for R1& R2

ORDER

The petitioner is a manufacturer of Insoles, presently registered as a dealer under the provisions of the Puducherry Goods and Services Taxes Act, 2017 (PGST Act), prior to which it was a dealer under the provisions of the Puducherry Value Added Tax Act, 2007 (PVATAAct).

2. With the enactment of the PGST Act with effect from 01.07.2017, the petitioner had made an attempt to transition/migrate existing credit available under the VAT scheme to the GST portal. Section 139 of the PGST Act provides for migration of existing tax payers. As per the procedure set out for migration, existing dealers who held a valid PAN were provided with a provisional user ID and password, generated by the Goods and Service Tax Network (GSTN)/R2.

3. The user ID and password constitute mandatory requirements for enrolling under the GST Scheme and are required to login into the GST portal. Upon completion of the registration process using the user (provisional) ID, the same becomes the GSTN for the purposes of GST.

4. The petitioner states that since no provisional ID was received from GSTN, it proceeded to utilise an ID using random units that, admittedly, has no basis and was defective. Using this ID, business was conducted during the period 01.07.2017 to 21.08.2017 and credit was also earned. Since, it was unable to utilise the credit generated on the basis of incorrect ID, the petitioner thereafter applied for a new registration that was granted on 22.08.2017. Returns were filed wherein the petitioner sought to claim credit of the input tax earned for the earlier period, unsuccessfully.

5. A request was made to respondents 4 and 5 on 20.09.2017, 23.09.2017, 25.09.2017, 03.10.2017, 28.08.2018 and 28.01.2019 seeking user name and password.

6. The present writ petition is thus filed seeking a mandamus directing the 5th respondent i.e. Commercial Tax Officer, to issue a user name and password to complete the migration process, upload returns in GSTR1 and GSTR3 and claim TRAN 1 credit under the old provisional ID earned from the months of July and August, 2017.

7. A counter has been filed on behalf of the respondents 3 to 5 being the Commercial Taxes Authorities at Puducherry, wherein the aforesaid narration of facts is more or less admitted.

8. Mr. J. Kumaran, learned Additional Government Pleader appearing for the Commercial Tax Authorities also fairly states that what appears to have transpired in this case is a simple human error and no serious objection is put forth permitting the petitioner to access the portal, file the requisite forms and avail the credit earned.

9. Mr. V. Sundareswaran, learned Panel Counsel appearing for the 2nd respondent also agrees that once a positive recommendation is received from the Puducherry GST Authorities, GSTN will permit the petitioner to access the portal, upload the forms and avail credit.

10. The above submissions are recorded. The appropriate authority is directed to issue the necessary positive recommendations for migration/transition of credit available in the account of the R2 within a period of four (4) weeks from date of receipt of a copy of this order and R2 will, in turn and within four weeks from receipt thereof, issue necessary intimation to the petitioner permitting it to access the portal and upload the forms.

11. The second limb of the prayer is that the petitioner should be permitted to deposit tax, penalty and interest under Section 50 of the PGST Act. Such a prayer is premature, since no assessment has been made in the present

case. The petitioner may canvass the same, if so inclined, at the time of assessment and such prayer, if and when put forth, shall be considered by the Authorities in accordance with law.

12. The Writ Petition is disposed in the aforesaid terms. No costs.

03.06.2020

Index: Yes/No

Speaking Order/Non speaking Order

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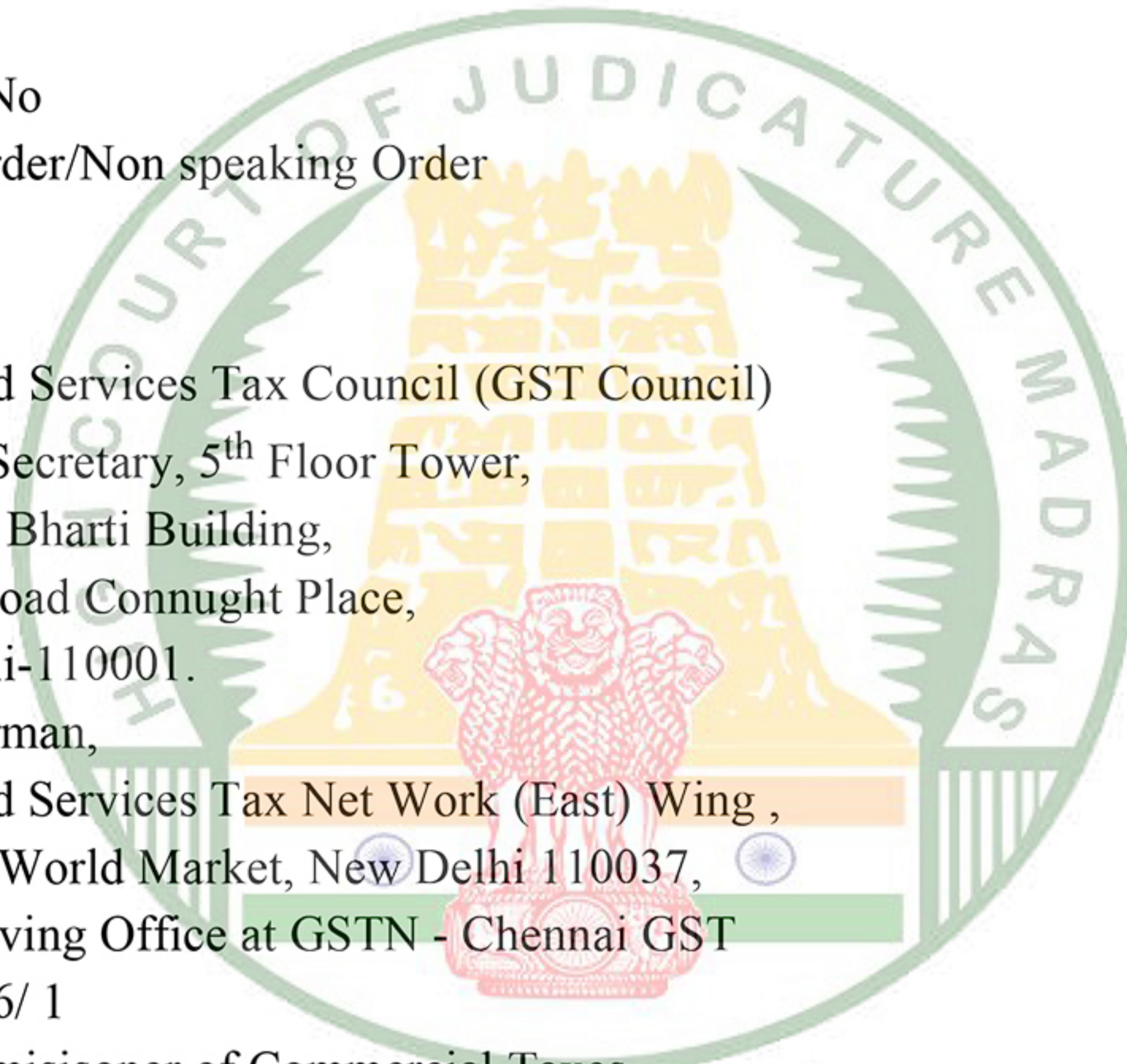
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Dr.ANITA SUMANTH,J.

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