

Chief Justice's Court

Case :- WRIT TAX No. - 881 of 2023

Petitioner :- M/S Anupam Electricals And Electronics

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Pranjal Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Ashutosh Srivastava,J.

Heard Shri Pranjal Shukla, learned counsel for the petitioner and Shri Ankur Agarwal learned counsel for State respondents.

The writ petition has been filed seeking issuance of a writ of Mandamus commanding the respondent authorities to condone the delay and permit the petitioner to file ITC-01 FORM to avail its eligible ITC or input lying on the stock as on date. A further prayer commanding the respondent no. 2 to decide the representation of the petitioner dated 27.04.2023 within the shortest time frame fixed by the Court, has been prayed for.

It is the case of the petitioner that it is a Proprietorship Firm duly registered under the Goods and Service Tax Act with GST TIN No. 09AEXPA7281G121. The petitioner Firm was initially registered under the Composition Scheme for the Financial Year 2022-23, however, with the increase in its turn over of the Financial Year April 2022 to December, 2022 it converted into normal scheme after submitting a withdrawal from the Composition Scheme. On account of the shifting into the normal scheme on 07.01.2023 the petitioner stands entitled to avail the ITC in respect of Stock of inputs in the form of semi finished/ finished goods and Capital goods held by it on the date of the withdrawal and furnish statement within 30 days in form GSTITC-01 on the common portal. However due to technical glitches on the GST Portal the petitioner was unable to file the ITC-01 FORM to avail the eligible ITC as per Section 18 (1) (c) of the SGST Act, 2017. It is also submitted that the petitioner has complied with the provisions of Rule 40 (1) (b) of the SGST Rules and has also prepared and certified the summary of ITC eligible on the lying stock on date. It is contended that the petitioner has approached the authorities for grant of the benefit but no heed has been paid by them presumably on the ground that delay has occasioned at the instance of the

petitioner dis-entitling him to such claim. Learned counsel for the petitioner has placed reliance upon two decisions of the Gujrat High Court in R/Special Civil Application No. 2560 of 2020 (M/s Pradip Chemanlal Mevada vs. Union of India) and R/Special Civil Application No. 13091 of 2020 (Ezzy Electricals Vs. State of Gujarat) wherein the petitions were disposed of by directing the respondents to do the needful and see to it that the petitioner is able to claim the Input Tax Credit by uploading the Form ITC-01. Learned counsel for the petitioner has urged that similar relief may also be granted to the petitioner.

Shri Ankur Agarwal learned counsel for the respondents in opposition to the writ petition submits that admittedly the delay has occasioned at the instance of the petitioner and he may not be entitled to the benefits as claimed. He however does not dispute the indulgence granted by the Gujarat High Court in similar circumstances.

We have heard the learned counsel for the parties and have perused the record as also the case laws relied upon by the petitioner. We find that the case of the petitioner is on the same footing as the petitioners before the Gujarat High Court. We are of the opinion that the petitioner is equally circumstanced and is entitled to the relief as has been granted by the Gujarat High Court to the petitioners before it particularly in view of the fact that no contrary case law has been cited by the counsel for the respondents.

Accordingly, the writ petition is ***disposed of*** by directing the respondents to do the needful and ensure that the writ petitioner is permitted to upload the Form ITC-01 so as to enable him to claim the Input Tax Credit worth Rs. 31,18,718/- as stated in para 13 of the writ petition) under Section 18 (1) (c) of the Act. Let the exercise be done within 4 weeks from the date of service of certified copy of the order of this Court upon the concerned respondents.

Order Date :- 29.8.2023

Deepak/

(Ashutosh Srivastava,J.) (Pritinker Diwaker,CJ.)