

Indusind Media Communications Ltd. & ... vs Union Of India & Ors on 23 January, 2019

Author: S. Ravindra Bhat

Bench: S. Ravindra Bhat, Prateek Jalan

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 8691/2018, CM Appl. Nos. 38569/2018 & 43568/2018

INDUSIND MEDIA COMMUNICATIONS LTD.

& ANOTHER & ANR.

..... Petitioners

Through: Mr. Gautam Narayan, ASC for
GNCTD with Ms. Shivani Vij &
Ms. Nahamaya Chatterjee, Advs.
Mr. Monish Panda & Mr. Mrinal
Bharat, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through:

Mr. Nikhil Goel & Mr. Gurpreet
Hora, Advs. for UOI.
Mr. Amit Bansal, Sr. Std. Counsel
with Ms. Seema Dolo, Adv. for R-5.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 23.01.2019

1. At the outset, it was submitted that the petitioners have filed the TRAN-1 in this case. Electronic credit ledger account is submitted only yesterday. Learned counsel for the petitioner submits that this development was consequent upon the Bombay High Court direction in W.P.(C) 2229/2018 Indusind Media Communications Ltd. vs. Union of India which had noticed the previous order of this Court, particularly the order dated 16.10.2018 and given further effect to it on account of its directions. A copy of the order of the Bombay High Court has been shown to the Court.

That order pertinently directs as follows:-

"7. In view of the above, the undisputed position before us is that the Petitioners are entitled to distribute the Input Credit available with it as on 1st July 2017 amongst its branches/locations. This distribution has not been possible on account of technical problems of the Respondents. Further the availment of input tax credit available on 1st July 2017 has to be done on or before 20th October 2018 in view of Section 16(4) of the Act. Thus, it is likely that the Petitioners may be deprived of the facility of the

input tax credit available with it on 1 st July 2017, if the same is not taken before 20th October 2018. It is to be noted that the Respondents have extended the time to the file TRANS-1 and TRANS-2, but no such extension has been granted to extend the time to file GSTR-3B. Thus, in the above facts, pending the final disposal of the Petition (when these issues will be considered in greater depth), as the system is not accepting it, the Petitioners would manually file with the Respondents a copy of its revised TRANS-1, ITC-01 and also GSTR-3B at Mumbai (in physical form).

8. On the basis of the revised TRANS-1, ITC-02 and the GSTR- 3B at Mumbai (to be certified by the Commissioner at Mumbai), the petitioners will be entitled to take the credit reduced at Mumbai (Maharashtra) to its locations in Delhi, Gujarat and Karnataka subject to the satisfaction of the Commissioner having jurisdiction over those locations. We are not giving any directions to the Commissioners of Delhi, Gujarat and Karnataka as in terms of Section 25(4) of the Act each registered location/branch is a distinct person. Therefore, on the above basis of being distinct persons under the Act, they have in cases of Delhi locations and Karnataka location (as informed by Shri. Nankani, the learned Senior Counsel), the Petitioner has filed separate Petitions. Moreover, the Commissioners at separate locations/branches (except Mumbai) are not parties before us. Therefore, appropriate order from the jurisdictional Commissioners on the basis of the certificates issued by the Mumbai Commissionerate be obtained by the Petitioners locations/branches subject to the satisfaction of the concerned Commissioners in accordance with law."

2. In the light of the above, the Court is of the opinion that the authorities should take all expeditious steps to ensure that the certificate is issued by the Bombay Commissionerate to enable further steps to be taken by the Commissionerate of Delhi, Karnataka and Gujarat. Since the first step towards distribution of the input credit claim is the certificate to be issued by the Bombay Commissionerate, the respondent shall pass appropriate orders ensuring that the Bombay High Court's orders are respected and complied with utmost expedience.

3. Thereafter, other Commissionerates, especially Delhi Commissionerate, shall ensure that the verification is undertaken and completed within four weeks of the receipt of the orders.

4. List on 27th March, 2019.

S. RAVINDRA BHAT, J PRATEEK JALAN, J JANUARY 23, 2019 „pv