

**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 03RD DAY OF FEBRUARY, 2021

BEFORE

THE HON'BLE MR.JUSTICE SURAJ GOVINDARAJ

WRIT PETITION No.226277/2020 (T-RES)

Between:

INM Technologies Private Limited,
A company incorporated under the
Companies Act, 2013,
Represented by its
Director/Authorised Signatory,
13-E/13, 1st Phase,
Kumbalgouda Industrial Area,
Kengeri (H),
Mysore Road, Bengaluru-560 059,
Having its principal place of business at
7-5-216, JAWAHAR NAGAR,
Raichur, Karnataka-584103.

... Petitioner

(By Sri. Ameet Kumar Deshpande, Advocate)

And:

1. The Union of India
Represented by its Revenue Secretary
Department of Revenue,
Ministry of Finance,
128-A, North Block,
New Delhi-110001.

2. The Central Board of Indirect Taxes & Customs
Through its Chairman,
North Block, New Delhi-110 001.
3. The Goods and Services Tax Council,
Represented by its Secretary,
5th Floor, Tower-II, Jeevan Bharati Building,
Janpath Road, Canaught Place, New Delhi-110001.
4. The State of Karnataka,
Represented by its Prl. Secretary
Department of Finance,
M.S.Building, Bengaluru-01.
5. The Commissioner of Commercial Taxes
Kalidasa Marg, Gandhinagar,
Bengaluru-9.
6. The Joint Commissioner of Commercial Taxes
Station Area, Kalaburagi-585102.
7. The Assistant Commissioner of Commercial Taxes,
LOSTO-530, Kalaburagi Division,
Manthralayam Road, Raichur-584101.

... Respondents

**(By Sri. Sudhirsingh.R.Vijayapur, ASGI for R1;
By Smt. Archana.P.Tiwari, Advocate for R2 and 3;
By Sri. Mallikarjun Sahukar, HCGP for R4 to 7)**

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India praying to issue an appropriate writ, more so in the nature of mandamus and grant the following reliefs:

- (i) Direct the respondents herein to make arrangements for reflecting in the electronic credit ledger relating

to the petitioner herein, the CENVAT Credit amount of Rs.16,27,341/- as shown in the TRAN-1 form submitted by the petitioner herein, either by permitting the petitioner to submit the TRAN-1 manually or by re-enabling web portal so as to permit the petitioner to file the TRAN-1 by showing the eligible credit of Rs.16,27,341/-.

- (ii) Direct the respondents herein to consider the complaint, grievance and correspondences dated 19.02.2018, 08.02.2019, 22.04.2019, 08.07.2019 and 18.06.2020 at Annexure-E series collectively, and thereby to make necessary arrangement for giving CENVAT credit (Input Trade Credit) in favour of the petitioner, of the amount of Rs.16,27,341/- in respect of the TRAN-1 submitted by the petitioner on 26.12.2017, forthwith and etc.

This petition coming on for orders this day, the Court made the following:-

ORDER

1. Sri. Mallikarjun Sahukar, learned High Court Government Pleader accepts notice for respondent Nos.4, 5, 6, 7. Sri. Sudhirsingh.R.Vijapur, learned ASGI for respondent No.1. Smt. Archana.P.Tiwari, learned counsel accepts notice for respondent Nos.2 and 3.

2. The petitioner is before this Court seeking for a relief to the nature of mandamus directing the respondents to make arrangements for reflecting their electronic credit ledger relating to the petitioner herein, the CENVAT Credit as shown in the TRAN-1 form issued in favour of the petitioner.
3. The petitioner is a registered dealer under the provisions of the Central Goods and Services Tax Act, 2017 has been allotted GST IN 29AADC17257B1ZK and carries out the business and manufacturer and sale of pharmaceuticals, bio-medical and polymer-nano materials, medicinal and pharmaceutical preparations etc.,
4. The petitioner was earlier registered dealer under the KVAT Act 2003. As regard which necessary registerable certificate was issued to the petitioner. The petitioner was making the payment of necessary Taxes under the KVAT Act, 2003, until coming into force of the Central Goods and Services Tax Act,

2017 which came into force on 01.07.2017. The petitioner was permitted to carry forward, the Central Credit under the CENVAT Regime to the CGST regime by claiming electronic credit by necessary form TRAN-1. In the present case on coming into force of CGST Act. The said form had to be upload by 27.12.2017 to claim credit. When the petitioner tried to upload the said form and claim credit, the electronic credit ledger of the petitioner was not shown on the website or web portal of the respondent. In as much as though the petitioner is entitled to claim benefit on Rs.16,27,341/-, the admissible credit was shown as zero.

5. In view of the said aspect of the matter, the petitioner raised the grievance on 19.02.2018 and the grievance number was allotted. The petitioner submitted another grievance and complaint on 19.02.2018, however no response has been received from the concerned authority. The petitioner

thereafter wrote to the Assistant Commissioner of Commercial Taxes on 08.07.2019 to the Assistant Commissioner of Commercial Taxes, Raichur on 18.06.2020 to the Commissioner of Commercial Taxes of Bengaluru and Joint Commissioner, Commercial Taxes, Kalaburagi. However, no action was taken thereon.

6. It is not in dispute that on coming into force of GST regime, the CENVAT regime came to an end. It also cannot be disputed that assessee registered as dealer under the CENVAT resume can claim credit in the GST resume. It is but required for the respondent to make available necessary provision resulted on the website of the portal of the respondent to enable the petitioner to claim such credit. Merely because there was a glitch in the website and or that the website is not working properly, a registered dealer cannot be denied the benefit of credit available under the provisions of

Act. More particularly Section 140 of the Act. In view thereof, the respondents are directed to make necessary arrangement by updating the data available with the respondent as regards the electronic credit ledger of the petitioner and reflect the correct amount so as to enable the petitioner to claim said credit. If same is not possible electronically to receive physical hard copy from the petitioner for the purpose of consideration of grant of such credit, by considering the representation and grievance submitted by petitioner at Anenxure-E series within a period of eight weeks from the date of receipt of certified copy of this order. The petitioner is also at liberty to furnish a certified copy of the order. With the above observation, the writ petition stands disposed of.

**Sd/-
JUDGE**

SMP