# IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P (T) No. 1435 of 2020

M/s Jagdamba Traders (a proprietorship concern), Chaibasa through its Proprietor Shanti Devi Upadhyay --- Petitioner

Versus

- 1. The Union of India through the Commissioner, Central Goods & Services Tax & Central Excise, Jamshedpur
- 2. The Assistant Commissioner of Central Goods and Services Tax and Central Excise, Jamshedpur
- 3. The Superintendent, Central Goods and Services Tax and Central Excise, Jamshedpur
- 4. The State of Jharkhand through its Secretary cum Commissioner, Commercial Taxes Department, Ranchi
- The Deputy Commissioner of State Taxes, Chaibasa Circle,
   Chaibasa, West Singhbhum
   Respondents

With

# W.P (T) No. 1434 of 2020

M/s K.P. Automobiles Private Limited, Ranchi through its
Director Dr. Rakesh Kumar Singh --- Petitioner

Versus

- 1. The Union of India through the Principal Commissioner, Central Goods and Services Taxes and Central Excise, Ranchi
- 2. The Assistant Commissioner of Central Excise and Services Tax and Central Excise, Ranchi
- 3. The Secretary-cum-Commissioner, Commercial Taxes Department, Ranchi
- 4. The Deputy Commissioner of State Taxes, East Circle, Ranchi

--- Respondents

With

## W.P (T) No. 1809 of 2020

Krishna Automobiles (a proprietorship concern), Deoghar through its Proprietor Abhinav Kumar --- Petitioner

Versus

- 1. The State of Jharkhand through the Secretary, State Tax Department, Ranchi
- Joint Commissioner of State Tax,
   Computerization Division (Admin), Ranchi
- 3. Joint Commissioner of State Tax (Administration), Dumka Division, Dumka
- 4. Deputy Commissioner of State Tax, Deoghar Circle, Deoghar
- 5. The Union of India through Goods and Services Tax Council through its Secretary, New Delhi --- Respondents

With

## W.P (T) No. 2547 of 2022

M/s Neptune Traders Private Limited, Dhanbad through its authorized Signatory Shri Ajit Kumar Mandal --- Petitioner

Versus

- 1. The Goods and Services Tax Network through its Chairman, New Delhi
- 2. Union of India through the Secretary and Commissioner (GST), Ministry of Finance, Department of Revenue, New Delhi
- 3. The State of Jharkhand through the Commissioner,

Commercial Taxes Department, Ranchi

- 4. Joint Commissioner of State Tax, Jharkhand, Ranchi
- 5. Deputy Commissioner of State Tax, Commercial Taxes Department, Katras Circle, Katras, Dhanbad
- 6. Assistant Commissioner of State Tax, Commercial Taxes Department, Katras Circle, Katras, Dhanbad --- Respondents

#### With

## W.P (T) No. 2560 of 2020

M/s Ambassador Vincom Private Limited, Dhanbad through its
Authorized signatory Shri Santosh Kumar Lal --- Petitioner

Versus

- 1. The Goods and Services Tax Network through its Chairman, New Delhi
- 2. Union of India through the Secretary and Commissioner (GST), Ministry of Finance, Department of Revenue, New Delhi
- 3. The State of Jharkhand through the Commissioner, Commercial Taxes Department, Ranchi
- 4. Joint Commissioner of State Tax, Jharkhand, Ranchi
- 5. Deputy Commissioner of State Tax, Commercial Taxes Department, Katras Circle, Katras, Dhanbad
- 6. Assistant Commissioner of State Tax, Commercial Taxes Department, Katras Circle, Katras, Dhanbad --- Respondents

#### With

## W.P (T) No. 2564 of 2020

M/s Durgapur Ceramics and Alloys Pvt. Ltd., Dhanbad through its
Authorized Signatory Shri Santosh Kumar Lal --- Petitioner
Versus

- 1. The Goods and Services Tax Network through its Chairman, New Delhi
- 2. Union of India through the Secretary and Commissioner (GST), Ministry of Finance, Department of Revenue, New Delhi
- 3. The State of Jharkhand through the Commissioner, Commercial Taxes Department, Ranchi
- 4. Joint Commissioner of State Tax, Jharkhand, Ranchi
- 5. Deputy Commissioner of State Tax, Commercial Taxes Department, Katras Circle, Katras, Dhanbad
- 6. Assistant Commissioner of State Tax, Commercial Taxes Department, Katras Circle, Katras, Dhanbad --- Respondents

## With

## W.P (T) No. 2596 of 2020

M/s Nischay Impex Private Limited, Dhanbad through its
Authorized Signatory Shri Rajnikant Sharma --- Petitioner
Versus

- 1. The Goods and Services Tax Network through its Chairman, New Delhi
- 2. Union of India through the Secretary and Commissioner (GST), Ministry of Finance, Department of Revenue, New Delhi
- 3. The State of Jharkhand through the Commissioner, Commercial Taxes Department, Ranchi
- 4. Joint Commissioner of State Tax, Jharkhand, Ranchi
- 5. Deputy Commissioner of State Tax, Commercial Taxes Department, Katras Circle, Katras, Dhanbad
- 6. Assistant Commissioner of State Tax, Commercial Taxes Department, Katras Circle, Katras, Dhanbad --- Respondents

#### With

## W.P (T) No. 1632 of 2021

M/s Topsel Marketing Private Limited, Branch Office at Ranchi through
One of its authorized representative Mr. Raj Kumar Sharma --- Petitioner
Versus

- 1. The Union of India through the Principal Commissioner, Central Goods and Services Tax and Central Excise, Ranchi
- 2. The Assistant Commissioner of Central Goods and Service Tax and Central Excise, Ranchi --- Respondents

#### With

## W.P (T) No. 2980 of 2021

M/s Poorva Motors Pvt. Ltd, Bokaro through its

Director Sri Ravindra Kumar --- Petitioner

Versus

- 1. Union of India through the Principal Commissioner, Central Goods and Services Taxes and Central Excise, Ranchi
- 2. Secretary-cum-Commissioner, Commercial Taxes Department, Ranchi
- 3. Joint Commissioner, State Taxes, Headquarters, Ranchi
- 4. Deputy Commissioner, State Taxes, Bokaro Circle, Bokaro
- 5. Assistant Commissioner, State Taxes, Bokaro Circle, Bokaro
- 6. State Tax Officer, Bokaro Circle, Bokaro
- 7. The Goods and Services Tax Network through Chairman, New Delhi

--- Respondents

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# CORAM: Hon'ble Mr. Justice Aparesh Kumar Singh Hon'ble Mr. Justice Deepak Roshan

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For the Petitioners: M/s Sumeet Gadodia, Ranjeet Kushwaha, Shilpi

Sandil Gadodia, Aakansha Mittal, Advocates [WPT Nos. 1435/2020, 1434/2020 & 1809/2020] M/s Biren Poddar, Sr. Advocate, Deepak Sinha, Rakhi Sharma, Advocates [WPT 2547/2020, 2566/2020, 2566/2020]

2560/2020, 2564/2020 and 2596/2020] Ms Amrita Sinha, Advocate [WPT 1434/20,

1632/2021 & 2980/21]

For the Resp.-CGST: Mr. Amit Kumar, Advocate [WPT 1435/2020]

1434/2020 & 1632/2021]

For the Resp.-State & GSTN: Mr. P.A.S. Pati, Ranjana Mukherjee, Advocates

[WPT 1809/2020, 2547/2020, 2560/2020,

2564/2020 & 2596/2020]

For the Resp.-State: Mr. Sachin Kumar A.A.G-II

[WPT 2547/2020 & 2596/2020] M/s Ashok Kr. Yadav, Sr. S.C-I Mr. Salona Mittal, A.C to Sr. S.C-I [WPT 2560/2020 & 2980/21]

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10 / 10.08.2022 W.P (T) No. 2980/2021 be also tagged with the instant batch of writ petitions as it relates to the same issue.

2. All these writ petitions have common grievances i.e. non-filing of Form GST-TRAN-1 to avail of the transitional credit in terms of Section 140 of

CGST and JGST Act, 2017 within the stipulated time. However, this issue is now settled by the judgment of the Apex Court rendered in Special Leave to Appeal (Civil) No. 32709-32710 of 2018 and analogous cases [Union of India and another versus Filco Trade Centre Pvt. Ltd. and another [2022 VIL 38 SC] vide judgment dated 22.07.2022. The Apex Court has, by order dated 22.07.2022, directed that any aggrieved registered Assessee can file relevant form TRAN-1 and TRAN-2 or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by the Information Technology Grievance Redressal Committee (ITGRC) within the window period 01.09.2022 till 31.10.2022.

3. Learned counsel for the petitioners submit that the direction issued by the Apex Court in the case of Filco Trade Centre Pvt. Ltd. and another (Supra), shall govern the case of the individual petitioners. Similar writ petition W.P (T) No. 2524/2020 (M/s Shri Enterprises versus Goods and Services Tax Network through its Chairman, New Delhi & others] has been disposed of by this Court vide order dated 26.07.2022 taking note of the direction of the Apex Court in the case of Filco Trade Centre Pvt. Ltd. and another (Supra) to enable them to avail of the window period of 01.09.2022 till 31.10.2022 for filing relevant form GST-TRAN-1 and TRAN-2. Since the issue does not need any adjudication, we need not delve into details of individual cases except bare necessary facts which are indicated hereunder:

## W.P (T) No. 1435 of 2020

4. This petitioner could not file its application electronically on the common portal in Form GST-TRAN-1 within the stipulated period by 27.12.2017. Though the time limit for filing GST-TRAN-1 was extended by the Central Government under Rule 117(1A) of CGST Rules, however, relaxation in time period for filing TRAN-1 up to 30.06.2020 was only for those Assessees in whose cases technical glitches on GSTN Portal were established. Therefore, petitioner approached this Court for an appropriate direction upon the Respondents to enable it to file declaration and submit Form GST-TRAN-1 and TRAN-2 respectively to carry forward Cenvat Credit and Input Tax Credit.

## W.P (T) No. 1434 of 2020

5. This petitioner could not file Form GST-TRAN-1 within the stipulated time on a bonafide belief that Form GST TRAN-03 is valid and sufficient declaration for availing the transitional Cenvat Credit. However, when the credit with respect to TRAN-03 was not reflected in its electronic ledger, he

pursued the matter with GSTN helpdesk. He was informed that TRAN-03 is only a declaration form, therefore no amount will be credited upon filling of this Form. However, since time limit had lapsed, petitioner could not file Form GST-TRAN-1. Therefore, petitioner has approached this Court.

#### W.P (T) No. 1809 of 2020

6. This petitioner also missed the deadline to file the Form GST-TRAN-1 due to technical glitches. He also could not avail of the extended period for filing declaration in Form GST-TRAN-1 due to technical glitches as it was not accepted by the GSTN Portal. Therefore, instant writ petition was filed for an appropriate direction upon the Respondents to enable it to file declaration and submit Form GST-TRAN-1 either manually or electronically to carry forward the Cenvat Credit and Input Tax Credit which is lying in his name.

## W.P (T) No. 2547 of 2020

7. Petitioner herein could not file declaration in Form GST-TRAN-1 within the stipulated period. He took the plea of poor connectivity and technical glitches on the common Portal. However, it was not permitted to submit Form GST-TRAN-1 manually. His application dated 12.06.2020 with Form GST-TRAN-1 filed manually before Deputy Commissioner, State Tax, Katras Circle, Katras, was rejected by order dated 01.07.2020. Petitioner therefore approached this Court with a prayer to allow it to file Form GST-TRAN-1.

# W.P (T) No. 2560 of 2020, W.P (T) No. 2564 of 2020 & W.P (T) No. 2596 of 2020

8. Case of the petitioners in these writ petitions stands on the same footing as that of M/s Neptune Traders Private Limited in W.P (T) No. 2547/2020. Their application for accepting Form GST-TRAN-1 manually has been rejected by the Deputy Commissioner, State Tax, Katras Circle, Katras by order dated 01.07.2020.

# W.P (T) No. 1632 of 2021

9. Petitioner was not allowed to file rectified declaration in Form GST-TRAN-1 by opening common portal or manually for availing the benefit of transitional credit lying in his name in terms of Section 140(3) of CGST Act, 2017. Though Form GST TRAN-1 was filed, but due to lack of knowledge, details were filed in wrong column. Later, it discovered the mistake and represented. However, even after assurance of the Department, his problem was never redressed. Accordingly, he was compelled to move this Court for an

appropriate direction upon the Respondents to allow him to file rectified declaration in Form GST-TRAN-1.

# W.P (T) No. 2980 of 2021

- 10. This petitioner could not file declaration in Form GST TRAN-1 within the stipulated time to carry forward the transitional credit of eligible duty of Central Excise available with him on the appointed day due to technical glitches in the Web Portal of the Respondent Department. However, despite approaching the Department, his grievance was not redressed. Therefore, he has approached this Court with the same prayer.
- 11. Reasons for non-filing of Form GST TRAN-1 and TRAN-2 within the stipulated period may be slightly different in individual cases, as noted above, but irrespective of the aforesaid reasons, since any of the aggrieved registered assesses have been directed to file relevant form and revise the already filed form under the window period of 01.09.2022 till 31.10.2022 irrespective of the fact that whether he had approached the High Court or their cases were decided by ITGRC, the issue need not detain us. Learned counsel for the Respondents also admit that the direction issued in the case of **Filco Trade Centre Pvt. Ltd.** and another (Supra) governs the case of the individual petitioners and similarly situated persons. Judgment of the Apex Court in the case of Union of India and another versus Filco Trade Centre Pvt. Ltd. and another is quoted hereunder:

"UPON hearing the counsel the Court made the following ORDER

Permission to file Special Leave Petition(s) is allowed. Delay condoned.

Having heard learned Additional Solicitor General, learned counsel appearing for different States and learned counsel appearing for different private parties and having perused the record, we are of the view that it is just and proper to issue the following directions in these cases:

- 1. Goods and Service Tax Network (GSTN) is directed to open common portal for filing concerned forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022.
- 2. Considering the judgments of the High Courts on the then prevailing peculiar circumstances, any aggrieved registered assessee is directed to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee (ITGRC).
- 3. GSTN has to ensure that there are no technical glitch during the said time.

- 4. The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.
- 5. Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.
- 6. If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims.

The Special Leave Petitions are disposed of accordingly. Pending applications, if any, also stand disposed of."

12. We have taken note of the submission of learned counsel for the parties in the light of the prayer and pleadings made by the writ petitioners. As per order dated 22.07.2022 passed by the Apex Court, any aggrieved registered assesse shall file relevant Form TRAN-1 and TRAN-2 or revise the already filed Form irrespective of whether the taxpayer has filed writ petition before the High Court or whether the case of the taxpayer has been decided by Information Technology Grievance Redressal Committee (ITGRC) within this window period of 01.09.2022 till 31.10.2022. As such, case of the petitioners would also abide by the said direction. Writ petitions are accordingly disposed of so that the petitioners may avail of the direction issued by the Apex Court in the case of Filco Trade Centre Pvt. Ltd. and another (Supra).

(Aparesh Kumar Singh, J)

(Deepak Roshan, J)

Ranjeet/