



[2023] 147 taxmann.com 546 (Andhra Pradesh)[20-10-2022]

GST : Where petitioner failed to correct mistake in FORM TRAN-1 and could not file TRAN-2, Petitioner could avail Benefit of Supreme Court ruling in Union of India v. Filco Trade Centre (P.) Ltd. [\[2022\] 140 taxmann.com 535/63 GSTL 162/92 GST 860](#) as GST portal would be kept open till 31-10-2022

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[2023] 147 taxmann.com 546 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

Vihari Marketing (P.) Ltd.

v.

Assistant Commissioner of Central Tax^{*}

U. DURGA PRASAD RAO AND T. MALLIKARJUNA RAO, JJ.

WRIT PETITION NO. 44976 OF 2018

OCTOBER 20, 2022

Input tax credit - Transitional provision - Non-filing of TRAN-2 form - Petitioner tried to file FORM TRAN-2, but could not file - Thus, tax with interest was demanded - There was also mistake in filing TRAN-1 Form by incorrectly stating 'Yes' instead of 'No' in Central Excise column - Petitioner sought to open GST portal for filing Forms TRAN-1 and TRAN-2 for availing transitional credit - Portal was kept open as per Supreme Court judgment in Union of India v. Filco Trade Centre (P.) Ltd. [\[2022\] 140 taxmann.com 535/63 GSTL 162/92 GST 860](#) - HELD : Petitioner could avail benefit and upload relevant material through TRAN-1 and TRAN-2 before 31-10-2022 [Section [140](#) of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017] [Paras 3 and 4] [In favour of assessee]

CASE REVIEW

Union of India v. Filco Trade Centre (P.) Ltd. [\[2022\] 140 taxmann.com 535/63 GSTL 162/92 GST 860](#) (SC) (para 4) followed.

CASES REFERRED TO

Union of India v. Filco Trade Centre (P.) Ltd. [\[2022\] 140 taxmann.com 535/92 GST 860 \(SC\)](#)/MANU/SCOR/64133/2022 (para 3).

M. VK. Moorthy, Ld. Counsel for the Petitioner. **Y.N. Vivekananda**, Ld. Sr. Standing Counsel, for the Respondent.

ORDER

U. Durga Prasad Rao, J. - The petitioner seeks writ of mandamus declaring the action of the respondents in levying duty of Rs. 48,80,172/- with interest for not filing Tran - 2 forms which in fact the petitioner tried on 16.08.2018, 20.09.2018 and 15.11.2018 but failed and the mistake of the petitioner in filing Tran - 1 form by wrongly stating in the central excise column as 'Yes' instead of 'No' as illegal, arbitrary, unjust, improper, being the GST Act is new Act and direct the respondents to open Tran - 2 form or accept the Tran - 2 form manually and grant such other relief as fit and proper under the circumstances of the case.

2. Heard learned counsel for petitioner, Sri M.V.K.Moorthy, learned counsel for petitioner, learned Government Pleader for Commercial Taxes - II representing on behalf of the 1st respondent, Sri Y.N.Vivekananda, learned Senior Standing Counsel for CBIC, representing on behalf of the 2nd respondent and learned Deputy Solicitor General, representing on behalf of the 3rd respondent.

3. Referring to the judgment of the Hon'ble Apex Court in *Union of India v. Filco Trade Centre (P.) Ltd.* [[2022\] 140 taxmann.com 535/92 GST 860 \(SC\)](#)/MANU/SCOR/64133/2022, learned counsel for petitioner would submit that in view of the directions contained therein, the respondent authorities are required to open the Tran - I and Tran - 2 for transactional credit between 01.09.2022 and 31.10.2022 and in view of the covered judgment, necessary directions may be issued to the respondents. A copy of the said judgment is also furnished to the learned Senior Standing Counsel and he has not disputed about the judgment covering the facts of the case.

4. Having regard to the above and due to the information submitted by both parties that pursuant to the judgment of the Hon'ble Apex Court, Tran - 1 and Tran - 2 are kept opened, we observe that the petitioner can avail the benefit of this judgment and upload the relevant material through Tran - 1 and Tran - 2 before 31-10-2022.

5. With the above observation, this writ petition is disposed of. No costs. As a sequel, interlocutory applications pending, if any, shall stand closed.

GK

*In favour of assessee.