



WP No. 105963 of 2019

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 29TH DAY OF JULY, 2022

BEFORE

THE HON'BLE MR JUSTICE M.I.ARUN

WRIT PETITION NO. 105963 OF 2019 (T-RES)

BETWEEN:

M/S.ASHOKA BUILDCON LIMITED
NH-4, HIREBAGEWADI TOLL PLAZA,
BELAGAVI-591109,
(REPRESENTED BY
SRI.RAVINDRA M. .VIJAYVARGIYA
JOINT GENERAL MANAGER
(ACCOUNTS and FINANCE)

...PETITIONER

(BY SRI. R.DAKSHINA MURTHY, SRI.K.S.NAVEEN KUMAR
AND SRI. SHASHANK S HEGDE, ADVOCATES)

AND:

1. THE UNION OF INDIA
(REPRESENTED BY ITS SECRETARY)
MINISTRY OF FINANCE, NORTH BLOCK,
NEW DELHI-110001.
2. THE STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY,
FINANCE DEPARTMENT,
DR.AMBEDKAR VEEDHI, VIDHANA SOUDHA,
BENGLAURU-560001.
3. THE COMMISSIONER OF
CENTRAL GST AND CENTRAL EXCISE
NO.71, CLUB ROAD,
BELAGAVI-590001.
4. THE DEPUTY COMMISSIONER
STATE JURISDICTION- LVO-390 BELAGAVI



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COMMERCIAL TAXES OFFICE/GST OFFICE
CLUB ROAD, BELAGAVI-590001.

5. THE ASSISTANT COMMISSIONER
RANGE-II, OFFICE OF THE COMMISSIONER OF
GST and CENTRAL EXCISE
CLUB ROAD, BELAGAVI-590001.
6. THE CENTRAL BOARD OF
INDIRECT TAXES AND CUSTOMS
HAVING ITS OFFICE AT NORTH BLOCK,
NEW DELHI-110001.

...RESPONDENTS

(BY SRI. SHIVAPRABHU HIREMATH, AGA FOR R2,
SRI.JEEVAN J. NEERALGI, ADV. FOR R1, 3, 5 & 6,
ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO:- a) QUASH THE SECTION 164 OF CGST/SGST ACT READ WITH RULES 117 AND 120A AND FORM TRAN 1 OF THE CGST RULES, 2017 AND KARNATAKA STATE GST RULES, 2017, AS BEING ILLEGAL, UNCONSTITUTIONAL AND UNTENABLE IN LAW OR READ DOWN THE SAID PROVISIONS SO AS TO ENABLE WITHOUT ANY RESTRICTIONS OR TIME LIMIT TO REVISE/CORRECT/AMEND TRAN-1 OR FILE A FRESH TRAN-1. b) DIRECT THE RESPONDENTS TO ALLOW THE REVISION/CORRECTION / AMENDMENT OF FORM TRAN-1 ELECTRONICALLY OR ALTERNATIVELY ACCEPT THE MANUAL CORRECTED FORM TRAN-1 FILED BY THE PETITIONER ALREADY AND TO ALLOW PETITIONER TO CARRY FORWARD CENVAT CREDIT OF RS.31,76,905 TO ITS ELECTRONIC CREDIT LEDGER UNDER THE GST REGIME AND DIRECT THE RESPONDENTS TO ALLOW THEM TO FILE REVISED/MODIFIED TRAN-1 RETURN ONLINE IN GST PORTAL OR MANUALLY, c) ALTERNATIVELY, DIRECT THE RESPONDENTS TO GRANT REFUND OF AN AMOUNT EQUIVALENT TO CREDIT ENTITLEMENT WITH INTEREST.



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THIS PETITION COMING ON FOR **PRELIMINARY HEARING-B GROUP**, THIS DAY. THE COURT MADE THE FOLLOWING.

ORDER

Petitioner is registered under the provisions of Goods and Service Tax. It availed transitional credit through TRAN-1. The same was uploaded on the web portal of Central Board of Indirect Tax and customs. However, a mistake was committed while uploading the necessary details. The petitioner has sought to rectify the same. However, in the meanwhile the filing under the web portal was closed because of which the error could not be rectified. Hence, the instant writ petition is filed.

2. In the meanwhile, similar matters were considered by the Hon'ble Apex Court in SLP No.32709-32710/2018 and connected matters and goods and service Tax Network(GSTN) is directed to open common portal for filing concerned forms for availing Transitional credit through TRAN-1 and TRA-2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022. Petitioner pray for similar benefit be given to it.



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3. Counsel representing respondent Nos.1,3, 5 and 6 does not dispute the position of law laid down in SLP No.32709-32710/2018 and connected matters.

4. There is no reason why the benefit given under the Hon'ble Apex Court judgment should not enure to the benefit of petitioner herein. Hence, the following:

ORDER

Petitioner is permitted to revise/correct/amend TRAN-1 details filed by it with respondent No.4 between 01.09.2022 to 31.10.2022 and the respondent authorities shall consider the said revision/correction/amendment if any, in accordance with law.

Writ petition is disposed of accordingly.

**Sd/-
JUDGE**

HMB