

W.P(MD).No.1095 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.04.2022

CORAM

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P(MD).No.1095 of 2022

Madurai Krishna Network Private Limited,  
Represented by its Managing Director,  
Mr.P.Sikkandar  
Having its registered office at  
1, Malligai Malar Street,  
Bharathi Nagar,  
Krishnapuram Colony, Madurai-625014.

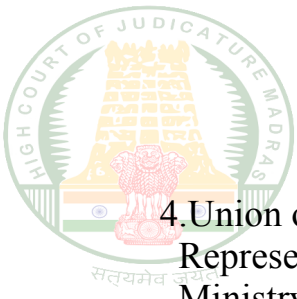
... Petitioner

**Vs.**

1.The Commissioner of GST & Central Excise,  
No.4, Lal Bahadur Sashtri Road,  
Revenue Buildings,  
B.B.Kulam, Madurai-625 002.

2.Goods and Services Tax Network (GSTN),  
East Wing, 4<sup>th</sup> Street, World Mark, 1 Aero City,  
New Delhi-110037.  
Also Having office at GSTN-Chennai,  
GST Bhavan, 26/1 MG Road,  
Nungambakkam,  
Chennai-600 034.

3.Goods and Services Tax Council (GST Council)  
Through Secretary,  
Jeevan Bharti Building,  
Janpath Road, Connaught Place,  
New Delhi-110001.



4.Union of India,  
Represented by its Secretary,  
Ministry of Finance,  
Department of Revenue,  
North Block, New Delhi-110001.

5.Government of Tamil Nadu,  
Represented by its Secretary,  
Store Tax Department,  
Fort St George,  
Chennai-600009.

...Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing them to take such actions as maybe necessary, including re-opening the common portal so as to enable the petitioner to submit the Form GST TRAN-1 electronically or to permit the petitioner to manually submit Form GST-TRAN-1 and accept the same as being in compliance with the provisions of section 140 of the Central Goods and Services Tax Act, 2017/Section 140 of the Tamil Nadu Goods and Services Tax Act 2017 read with rule 117 of the Central Goods and Services Tax Rules 2017/Rule 117 of the TamilNadu Goods and Services Tax Rules 2017.

For Petitioner : Mrs.N.Juliet Latha  
For R1 to R3 : Mr.S.Gurumoorthy  
For R4 : Mr.S.Jeyasingh

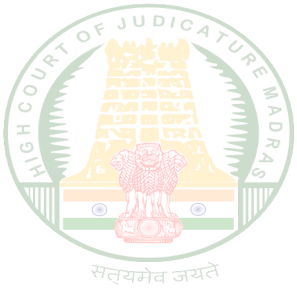
### **ORDER**

This writ petition has been filed for a writ of Mandamus to direct the respondents to take actions as maybe necessary, including re-opening the common portal so as to enable the petitioner to submit the Form GST



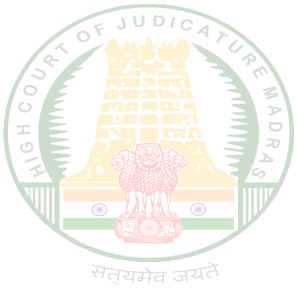
TRAN-1 electronically or to permit the petitioner to manually submit Form GST-TRAN-1 and accept the same as being in compliance with the provisions of section 140 of the Central Goods and Services Tax Act, 2017/Section 140 of the Tamil Nadu Goods and Services Tax Act 2017 read with rule 117 of the Central Goods and Services Tax Rules 2017/Rule 117 of the TamilNadu Goods and Services Tax Rules 2017.

2. It is the specific case of the petitioner is engaged in operating three Satellite Channels in India and as on cut off date 13.06.2017, the petitioner had substantial input tax credit which remained unutilised, which was attempted to transitioned under the new regime in terms of the above provisions. It is the further case of the petitioner that the petitioner had attempted to upload the TRAN-1 Form on 04.10.2017, which was duly acknowledged by the Commercial Tax Department and thereafter, the mail was received from the Goods and Service Tax help desk on 17.06.2018 asking the petitioner to provide details of the screenshot of the credit ledger with debit credit enteries (in PDF/JPEG page)



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3. It appears that the petitioner has also replied to the same by an e-mail dated 19.06.2018, wherein the petitioner stated that the credit which was remained unutilised in the Service Tax Returns have not been transferred to the petitioner after Goods and Service Tax came into force. In the mail, the petitioner has causally mentioned that credit of Rs.50,00,000/- has not been in transitioned and that the petitioner has not received any other information after uploading a PDF image on 25.06.2018. The petitioner replied by attaching screenshots for credit available in Service Tax and another screenshot of confirmation e-mail regarding for filing TRAN-1. However, Goods and Service Tax help desk, by a mail dated 28.06.2018 has replied that they have not received any response from the petitioner. Under these circumstances, the petitioner has sent a letter, dated 06.01.2020 by stating that the petitioner was a Service Tax registered under the provisions of the Finance Act, 1994 bearing Service Tax Registration No.AAHCM0108RSD001 and that the petitioner had a credit of Rs. 37,83,380/- and the same was attempted to be in transitioned through TRAN-1 in the petitioner's new registration but the amount has not been shown in the ledger under the new regime.



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4. The petitioner has also drawn the chronology of events prior to 06.01.2020 in the said letter. The respondents now by their communication, dated 31.08.2020 bearing reference C.No.IV/16/32/2017-GST had informed the petitioner that the Head Quarters Office, Madurai vide letter dated 27.09.2018 bearing reference C.No.II/39/05/2018 has informed that as per Goods and Service Tax Rule 117 (1A) the due date for filing TRAN-1 was available only for those who could not file due to technical difficulties after the recommendation of the Goods and Service Tax council on 31.03.2019 and the request sent after due date would not be considered for further processing.

5. The learned counsel for the respondents 1 to 3 submits that the petitioner was causal and has not clearly stated what was the credit amount lying unutilised in their account under the provisions of the CENVAT Act, 2004 read with Finance Act, 1994.

6. It is further submitted that the petitioner claims to have uploaded Form TRAN-1, dated 04.10.2017 with the Commercial Tax Department of Tamil Nadu, whereas, the petitioner was a service tax assessee and therefore,



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the acknowledgement given by the Commercial Tax Department on 04.10.2017 was of no relevance. That apart, it is submitted that in one of the e-mail dated 19.06.2018, the petitioner has stated that the credit amount that was to be in transitioned was Rs.50,00,000/- whereas in their representation, dated 06.01.2020, it has been restricted to Rs.37,83,380/-. That apart, the Goods and Service Tax council has taken categorical stand that no facility can be allowed where no returns were filed before the cut off date.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

8. The fact that whether the petitioner was having unutilised credit as on 30.01.2017 would have been available with the officers from the Service Tax Department drawn from the Central Excise Department. The fact that the petitioner has uploaded the relevant Form in Form TRAN-1 is not in dispute as it has been acknowledged by the Commercial Tax Department Tamil Nadu on 04.10.2017. It cannot be said that the petitioner has not uploaded the TRAN-1 as it has been acknowledged by the Commercial Tax Department Tamil Nadu. In the initial months of implementation of GST enactment, there



was confusion as to which of the assesseees would be assessed by the Commercial Tax Department and which of the assessee would be assessed by the officers under the Central Government from the Central Excise Department. The fact that the petitioner was an assessee with the Service Tax Department is not in dispute. The petitioner would have filed monthly returns under the provisions of Finance Act, 1994 read with Service Tax Rules 1994. The credit which was availed and remained unutilised would have been reflected in the periodical monthly returns filed by the petitioner. Therefore, I do not find any justification in the stand of the respondent in not allowing the credit to be utilised. If such credit existed as on 30.06.2017, being the last date after which the Goods and Services Tax regime was in place, credit should be allowed.

9. Therefore, I am inclined to dispose this writ petition by directing the respondents 1 and 2 to ascertain from the Service Tax Returns filed by the petitioner whether prior to the implementation of the Goods and Service Act, input tax credit was validly availed but had not been utilised by the petitioner. If such credit remained unutilised, which according to the petitioner amounts to Rs.37,83,380/-, the same shall be allowed either by way of corresponding credit entry in the electronic cash register of the petitioner or by way of cash



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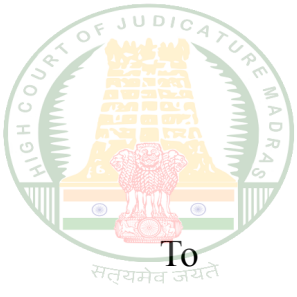
refund. This exercise shall be carried out by the respondents 1 and 2 within a period of 45 days from the date of receipt of copy of this order. It is needless to state that before passing such order, the petitioner shall also be heard. The petitioner is at liberty to produce additional document that may be necessary to establish its case that indeed credit of Rs.37,83,380/- remained unutilised and therefore the petitioner was entitled to the transition under the new regime with effect from 01.07.2017.

10. The writ petition stands disposed of in terms of the above observations. No costs.

**21.04.2022**

Index : Yes / No  
Internet : Yes/ No  
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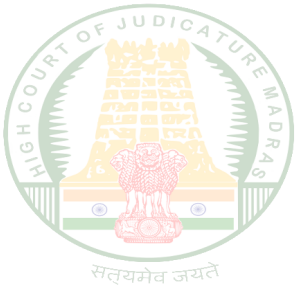
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**C.SARAVANAN, J.**

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