

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/SPECIAL CIVIL APPLICATION NO. 15105 of 2022**

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M/S SURAJ IMPEX  
Versus  
UNION OF INDIA

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Appearance:

A S TRIPATHI(7613) for the Petitioner(s) No. 1,2  
MR. PRIYANK LODHA for the Respondent(s) No. 1,2,3

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**CORAM: HONOURABLE MR. JUSTICE N.V.ANJARIA**  
and  
**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**

**Date : 24/08/2022**

**ORAL ORDER**  
**(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)**

Heard learned advocate Mr. A. S. Tripathi for the petitioners and learned advocate Mr. Priyank Lodha for the respondent upon service of copy of the petition in advance.

2. The petitioner No.1 is partnership firm and the petitioner No.2 is partner. The firm is engaged in the business of manufacturing of items of Brass and is registered under the Central Goods and Services Tax Act, 2017.

3. By filling this petition under Article 226 of the Constitution, the petitioners have prayed to direct the respondents to consider applications dated 8.3.2018, 7.6.2018, 29.4.2018 and 28.10.2018 as also further applications and letters dated 24.10.2017, 26.4.2018 and 26.3.2018 addressed to the competent authority under the Central Goods and

Services Tax Act, 2017, requesting the authorities to allow to the petitioners the transfer of Cenvate credit aggregating to Rs. 51,95,606/- as Inpute Tax Credit (ITC) in the petitioners' electronic credit ledger under the Central Goods and Services Tax Act, 2017 (CGST Act ) read with Rule 117 of the Central Goods and Services Tax Rules, 2017 (CGST Rules).

3.1 The alternative prayer is to direct the respondents to permit the petitioners to again file manually the TRAN-1 for declaring and transferring Cenvate credit of the aforesaid amount as Inpute Tax Credit (ITC) to the petitioners' electronic credit ledger.

3.2 The third prayer in the further alternative is to direct the respondents in terms of circular No. 39/13/2018 – GST dated 3.4.2018 as well as order No. 1/2020 GST dated 7.2.2020 to facilitate the petitioners in filling the FORM GST TRAN-1 electronically and to regularise the Cenvate Credit taken as Inpute Tax Credit in view of Transitional Credit-Guidance Note dated 14.3.2018 issued by the Ministry of Finance, Central Board of Indirect Taxes and Customs, New Delhi.

4. The basic facts in brief may be noted. On 26.8.2017, the petitioner firm filed TRAN-1, however, on account of technical error in the on-line portal, the same was not received and could not be filed resulting into loss of transition input tax credit to the tune of Rs. 51,95,606/-. The petitioner appears to have addressed letter dated 6.3.2018 to the Supdt., CGST Range-2, Jamnagar to allow carry forward of Cenvat credit through TRAN-1. Further letters dated 26.3.2018 and others came to be addressed requesting the authorities to allow carry forward of the Cenvat credit through TRAN-1 and raising such grievance last of the several letters was letter dated 12.3.2020. Thereafter, the present petition with

the prayers aforesaid came to be filed.

5. Learned advocates appearing for the respective parties are *ad idem* that the issue involved and required to be addressed in this petition, has been answered by the Apex Court in case of **Union of India and Anr. vs. Filco Trade Centre Pvt. Ltd and Anr. in Special Leave to Appeal No. 32709--327010 of 2018 and another allied matters** decided on 22.07.2020.

6. The Supreme Court issued the following directions disposing of the Special Leave to Appeal,

“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.

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.”

6.1 It goes without saying that the aforesaid decision of the Supreme Court shall govern the right of the parties.

7. The petition is accordingly disposed of in the above terms.

(N.V.ANJARIA, J)

(BHARGAV D. KARIA, J)

C.M. JOSHI

