

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 28.07.2022

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.35373 of 2019

M/s.SMC Corporation (India) Pvt. Ltd.,
(Formerly known as SMC Pneumatic (India) Pvt. Ltd.)
P-41/3, 8th Avenue, Mahindra World City,
Natham Sub Post Office, Chengalpattu Taluk,
Kancheepuram District,
Tamil Nadu – 603 004.

...Petitioner

Vs.

- 1.The Joint Commissioner of GST & Central Excise,
Chennai Outer Commissionerate,
Newry Towers No.2054-1, II Avenue,
12th Main Road, Anna Nagar,
Chennai – 600 040.
- 2.The Deputy Commissioner (COMPUTERS)
Principal Commissioner of GST & Central Excise,
GST Bhavan, 26/1, Mahatma Gandhi Road,
Chennai – 600 037.
- 3.The Jurisdictional Nodal Officer,
Chennai Outer Commissionerate,
Chennai – 600 037.



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4. Central Board of Indirect Taxes & Customs,
Department of Revenue, Ministry of Finance,
Government of India, New Delhi – 110 001.

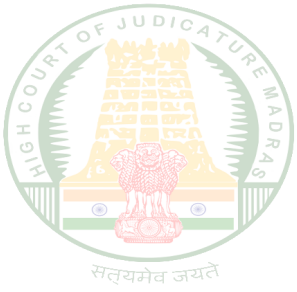
5. Assistant Commissioner of GST & Central Excise,
Maraimalai Nagar Division, No.40, Ranga Colony,
Rajakilpakkam, Chennai – 600 07.

6. The GST Council,
Represented through its Chairperson,
5th Floor, Tower-II, Jeevan Bharti Building,
Janpath Road, Connaught Palace,
New Delhi – 110 001.

7. Goods & Services Tax Network,
Represented through its Chairman,
East Wing, 4th Floor, World Mark-1,
Aerocity, New Delhi – 110 037.

...Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, in the nature of Writ, calling for the records relating to the Impugned Order in C.No.IV/16/58/2019-Comp(PF-1) dated 17.09.2019 passed by the 2nd Respondent and quash the same and direct the Respondents to allow the petitioner to avail GST Transitional Credit of Rs.97,20,353/-.



For Petitioner : Mr.Raghavan Ramabadran

For Respondents : Mr.A.P.Srinivas

Senior Standing Counsel for R1 to R5 & R7

: Mr.Venkataswamy Babu

Senior Panel Counsel for R6.

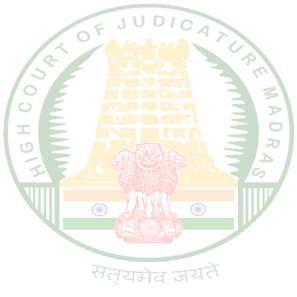
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ORDER

This matter was heard in detail and allowed on 05.07.2022 setting out a detailed procedure by which the petitioner and the respondents were to coordinate with each other to facilitate filing of form TRAN-I and uploading of the same. While this is so, the Hon'ble Supreme Court has considered the cases of several aggrieved assesseees who have been unable to upload the requisite Form to enable transition and utilization/availment of credit.

2. In the case of *Union of India and another V. Filco Trade Centre Pvt. Ltd. and another* (SLP (C) Nos.32700 – 32710 of 2018 dated 22.07.2022), the Court has, considering the hardship felt by several assesseees leading to a slew of litigation on this aspect, granted those, and all other similarly placed assesseees, the benefit of the following directions:

“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.



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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."*

3. In light of the aforesaid directions, specifically direction No.2 that permits '*any aggrieved registered assessee*' to avail the relief of transition, the petitioner prefers to approach the authorities taking benefit as extended by the Hon'ble Supreme Court. It thus prays that the order passed on 05.07.2022 be recalled and the petitioner be permitted to withdraw this writ petition with liberty to avail the benefit of the judgement of the Supreme Court in *Filco Trade Centre Pvt. Ltd. and another*. It is thus, and at their instance that this matter is listed today under the caption 'for clarification'.



4.Mr.Raghavan Ramabadran, learned counsel for the petitioner has made

an endorsement along the aforesaid lines and acceding to the request made, this

Writ Petition thus stands disposed as withdrawn, with liberty as aforesaid. No costs.

28.07.2022

Index : Yes/No

Speaking Order

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To

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