

Genuine mistake in filling Form GST TRAN-1 should not prevent the assessee from claiming legitimate credit

The Hon'ble Kerala High Court in *M/s G & C Infra Innovations v. Union of India and Ors. [WP(C) No. 14096 of 2019 dated March 7, 2022]* has directed the Revenue Department to facilitate revising of Form GST TRAN-1 to the assessee and make necessary arrangements on the web portal for filing of Form GST TRAN-2. If unfeasible then to permit the manual filing of such returns by the assessee. Held that, genuine mistake in filling up Form GST TRAN-1 should not prevent the assessee from claiming or being entitled to claim, what is otherwise legally due to it.

Facts:

M/s G & C Infra Innovation (**"the Petitioner"**) is engaged in the trading of iron and steel products and other accessories and allied items and was a registered dealer under the Kerala Value Added Tax Act, 2003 (**"the KVAT Act"**) as well as the Central Sales Tax Act, 1956 (**"the CST Act"**). The Petitioner is alleged to have INR 19,28,654 as an unutilized Input Tax Credit (**"ITC"**) under the earlier tax regime.

After the introduction of GST, the Petitioner submitted a declaration in Form GST TRAN-1 dated September 01, 2017 declaring the details of the credit to be claimed while filing Form GST TRAN-2. However, while attempting to complete the Form GST TRAN-2, the Petitioner received an error message stating that it had not declared anything in Part 7B of Table 7(a) of Form GST TRAN-1 and hence Petitioner cannot fill details in Table 4 of Form GST TRAN-2.

The Petitioner while filling up Form GST TRAN-1 made an inadvertent mistake of filling the details. Immediately after discovering the error, the Petitioner represented to the GST Council by representation dated March 16, 2018, which was rejected. Thereafter, the

Petitioner represented to the Nodal Officer, who rejected the representation by the order dated March 20, 2019 (“**the Impugned Order**”).

Being aggrieved, the Petitioner has filed this writ petition for corrections in Form GST TRAN-1 and to allow credit of the unutilized ITC into the electronic credit ledger of the Petitioner.

The Petitioner contended that the mix up of fields in the GST Form occurred inadvertently, due to lack of awareness under a nascent legislation and the same ought not to be treated as fatal to the entitlement of the Petitioner to obtain credit.

The Revenue Department (“**the Respondent**”) contended that, onetime facility to complete Form GST TRAN-1 procedure was extended to those assesseees who could not file Form GST TRAN-1 due to glitches as prescribed in *Circular No.39/13/2018-GST dated April 03, 2018* and also mentioned that no orders for extension of time have been permitted.

The Respondent contended that “an inadvertent mistake” cannot be corrected and that only technical glitches were permitted to be corrected, that too, within the time limit for filing Form GST TRAN-1 and stated that revising GST TRAN-1 at this belated stage would seriously jeopardize Government’s revenue and that the limitation of time for filing any Form or return are reasonable restrictions and are needed for administrative machinery of taxation to function well.

Issue:

Whether the Petitioner may be permitted to rectification or revised filing Form GST TRAN-1 in order to file Form GST TRAN-2 due to inadvertent mistake?

Held:

The Hon’ble Kerala High Court in *WP(C) No. 14096 of 2019 dated March 7, 2022* held as under:

- Relied on the judgment of the Hon'ble Delhi High Court in ***Blue Bird Pure (P) Ltd. v Union of India and Others [(2019) 68 GSTR 340]*** and the judgment of Hon'ble Kerala High Court in ***Goods and Service Tax Network v. M/s Leo Distributors [W.A No. 511 of 2020 dated June 4, 2020]*** wherein, the Court issued directions to the Revenue Department to permit filing of Form TRAN-1 beyond the extended date, and stated that the mistake in filling up the Form GST TRAN-1 was a bona fide error, and noted that, denying the relief of correcting the error can only be termed as arbitrary and unreasonable. In such instances, the Court cannot shy away from its constitutional obligation of enforcing equal protection of all laws within the territory of India, contemplated under Article 14 of the Constitution of India, thus the error should not prevent the Petitioner from claiming or being entitled to claim what is otherwise legally due to him.
- Noted that, petitioner had sought to correct the mistake in the details supplied in Form GST TRAN-1 immediately on becoming aware of the error.
- Directed the Respondent to facilitate the revision of Form GST TRAN-1 submitted by the Petitioner and make necessary arrangements on the web portal to file Form GST TRAN-2. Further stated that, if in case the same is not possible, then permit the manual filing of returns by the Petitioner, within a period of two months.

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