

GAHC010206862021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4828/2021

M/S ROCKLAND MEDIA AND COMMUNICATION PVT. LTD.
A CO. REGISTERED UNDER THE PROVISIONS OF THE INDIAN COMPANIES
ACT 2013 AND HAVING ITS PRINCIPAL PLACE OF BUSINESS AT GUWAHATI
ASSAM AND IN THE PRESENT PROCEEDINGS REPRESENTED BY SRI BIBEK
GOSWAMI.

VERSUS

UNION OF INDIA AND 5 ORS.
THROUGH THE SECY.
MINISTRY OF FINANCE
DEPTT. OF REVENUE
GOVT. OF INDIA
HAVING ITS OFFICE AT CENTRAL SECRETARIAT
NORTH BLOCK
NEW DELHI 110001

2:GSTN (GOODS AND SERVICE TAX NETWORK) THROUGH ITS CEO

EAST WING
WORLDMARK 1
4TH FLOOR
TOWER B. AEROCITY
NEW DELHI 110037
3:THE COMMISSIONER

CENTRAL GOODS AND SERVICE TAX
GST BHAWAN
KEDAR ROAD
FANCY BAZAR.
4:GST COUNCIL

5TH FLOOR

TOWER II
JEEWAN BHARTI BUILDING
JANAPATH ROAD
CONNAUGHT PLACE
NEW DELHI 110001
5:COMMISSIONER OF STATE TAXES

ASSAM KAR BHAWAN
G.S. ROAD
DISPUR
GUWAHATI 06
6:THE SUPERINTENDENT OF STATE TAXES
RANGE II A
GST BHAWAN
KEDAR ROAD
GUWAHATI 781001
ASSAM.

Advocate for : MS. M L GOPE
Advocate for : ASSTT.S.G.I. appearing for UNION OF INDIA AND 5 ORS.

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

23.11.2022

Heard Ms. M.L. Gope, learned counsel for the petitioner as well as Mr. S.C. Keyal, learned Standing Counsel for the GST.

2. The petitioner is challenging the non-grant of transitional credit under Section 140 of the Central Goods and Services Tax Act, 2017 and the Assam Goods and Services Tax Act, 2017.

3. It is the case of the petitioner that before the coming into force of the GST regime, the petitioner had Cenvat Credit admissible as ITC of Central Tax in accordance with the transitional provisions amounting to Rs.92,70,685/-. The petitioner first tried to file its declaration form electronically. However, the petitioner could not submit the declaration in FORM GST TRAN-1

electronically, due to technical glitches and other reasons even though the due dates had been extended. The petitioner, having no other option filed the same manually within the prescribed extended time and accordingly requested the respondent authorities to treat the data submitted manually to the respondent authorities, as submission of Tran-1 and further requested the respondent authorities to assist the petitioner to upload the said data. However, the respondent authorities could not offer any help to the petitioner to accept the Form Tran-1 Online or give credit of the same. As such, the petitioner could not file declaration in Form GST Tran-1 on GSTN Portal electronically, to enable it to claim transitional credit of eligible duties in respect of inputs held in stock on the appointed day in terms of Section 140 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as CGST Act) read with Rule 117 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as CGST Rules).

4. The petitioner's counsel submits that the writ petition can be disposed of in terms of the order dated 22.07.2022 passed by the Apex Court in ***Union of India & Anr v. Filco Trade Centre Pvt. Ltd & Anr.*** and the Circular No. 180/12/2022-GST dated 09.09.2022, issued by the Govt. of India, Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, GST Policy Wing.

5. Mr. S.C. Keyal, learned Standing Counsel for the GST also submits that he has got no quarrel with the submission made by the petitioner's counsel.

6. The order dated 22.07.2022 passed by the Apex in ***Union of India & Anr v. Filco Trade Centre Pvt. Ltd & Anr.*** states as follows:-

“Permission to file Special Leave Petition(s) is allowed.

Delay condoned.

Having heard learned Additional Solicitor General, learned counsel appearing

for different States and learned counsel appearing for different private parties and having perused the record, we are of the view that it is just and proper to issue the following directions in these cases:

- 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 Court 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.*

The Special Leave Petitions are disposed of accordingly.

Pending applications, if any, also stands disposed of."

- 7.** In terms of the Circular No. 180/12/2022-GST dated 09.09.2022, the time period for availing transitional credit through Tran- & Tran-2 has been extended

up to 30.11.2022.

8. In view of the submissions made by the counsels for the parties and as per their agreement, the writ petition is disposed of to enable the petitioner to take the benefit of the order dated 22.07.2022 passed by the Apex Court in ***Union of India & Anr v. Filco Trade Centre Pvt. Ltd & Anr.*** and the Circular No. 180/12/2022-GST dated 09.09.2022.

JUDGE

Comparing Assistant