

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3536 OF 2021

Ess Infraproject Pvt. Ltd.

... Petitioner

Vs.

The Union of India & Ors.

... Respondents

WITH
WRIT PETITION NO.3365 OF 2018
WITH
WRIT PETITION NO.2217 OF 2019
WITH
WRIT PETITION NO.3219 OF 2019
WITH
WRIT PETITION NO.95 OF 2020
WITH
WRIT PETITION NO.267 OF 2020
WITH
WRIT PETITION NO.321 OF 2020
WITH
WRIT PETITION NO.652 OF 2020
WITH
WRIT PETITION NO.656 OF 2020
WITH
WRIT PETITION NO.213 OF 2021
WITH
WRIT PETITION NO.1901 OF 2021
WITH
WRIT PETITION NO.2284 OF 2021
WITH
WRIT PETITION NO.2442 OF 2021
WITH
WRIT PETITION NO.2446 OF 2021
WITH
WRIT PETITION NO.2863 OF 2021

WITH
WRIT PETITION NO.2885 OF 2021
WITH
WRIT PETITION NO.3005 OF 2021
WITH
WRIT PETITION NO.3079 OF 2021
WITH
WRIT PETITION NO.3269 OF 2021
WITH
WRIT PETITION NO.3317 OF 2021
WITH
WRIT PETITION NO.3732 OF 2021
WITH
WRIT PETITION NO.35 OF 2022
WITH
WRIT PETITION NO.367 OF 2022
WITH
WRIT PETITION NO.440 OF 2022
WITH
WRIT PETITION NO.712 OF 2022
WITH
WRIT PETITION NO.2601 OF 2022
WITH
WRIT PETITION NO.3110 OF 2022
WITH
WRIT PETITION (L) NO.12893 OF 2022
WITH
WRIT PETITION (L) NO.12909 OF 2022
WITH
WRIT PETITION (L) NO.15936 OF 2022
WITH
WRIT PETITION (L) NO.19512 OF 2022
WITH
WRIT PETITION (L) NO.21326 OF 2022
WITH
WRIT PETITION (L) NO.22815 OF 2022

CIVIL APPELLATE JURISDICTION**WRIT PETITION NO.8388 OF 2019**

Finolex Industries Ltd.

... Petitioner

Vs.

The Union of India, Thr. The Revenue Secretary
& Ors.

... Respondents

WITH
 WRIT PETITION NO.9640 OF 2019
 WITH
 WRIT PETITION NO.874 OF 2020
 WITH
 WRIT PETITION NO.2885 OF 2020
 WITH
 WRIT PETITION NO.9106 OF 2022
 WITH
 WRIT PETITION NO.521 OF 2022
 WITH
 WRIT PETITION NO.3522 OF 2022
 WITH
 WRIT PETITION NO.9107 OF 2022
 WITH
 WRIT PETITION NO.4494 OF 2022
 WITH
 WRIT PETITION NO.9105 OF 2022
 WITH
 WRIT PETITION NO.9109 OF 2022
 WITH
 WRIT PETITION NO.9113 OF 2022

Mr. Bharat Raichandani a/w Mr. Mahesh Raichandani and Mr. Rishabh Jain i/by UBR Legal Advocates for Petitioner/s in WP No.2219 of 2019 and WP No.3536 of 2021.

Mr. Harish Bindumadhavan a/w Mr. Bharat Raichandani, Mr. Mahesh Raichandani and Mr. Rishabh Jain i/b UBR Legal Advocates for Petitioner/s in WP No.267 of 2020.

Mr. Gopal Mundhra a/w Ms. Ankita Vashistha i/by Economic Laws Practice for Petitioner/s in WP No.3365 of 2018.

Mr. Purushartha Satish i/by Mr. Prabhakar K. Shetty for Petitioner/s in WP No.3219 of 2019.

Mr. Rahul C. Thakar i/by Mr. C. B. Thakar for Petitioner/s in WP No.95 of 2020, WP No.2284 of 2021, WP No.3005 of 2021, WP No.3079 of 2021, WP No.3269 of 2021, WP No.3317 of 2021, WP No.35 of 2022, WP No.367 of 2022, WP No.440 of 2022, WP No.712 of 2022, WP No.2601 of 2022, WP(L) No.12893 of 2022, WP(L) No.12909 of 2022, WP(L) No.15936 of 2022, WP(L) No.19512 of 2022, WP(L) No.21326 of 2022 and WP(L) No.22815 of 2022.

Mr. Manohar Samal i/by Mr. Ratan Samal for Petitioner/s in WP No.321 of 2020.

Ms. Priyanka Ghosh i/by Mr. Abhiraj Parab for Petitioner/s in WP No.652 of 2020.

Mr. Shashank Shekhar a/w Ms. Ritika Ajitsaria i/b Trilegal for Petitioner/s in WP No.656 of 2020.

Mr.D.H. Nadkarni i/by Legal Solutions for Petitioner/s in WP No.213 of 2021.

Mr. Parth Badheka i/by Ms. Nikita Badheka for Petitioner/s WP Nos.2442 of 2021 and WP No.2446 of 2021.

Mr.V.M. Chavda for Petitioner/s in WP No.2863 of 2021.

Ms. Padmavati Patil with Mr. Kiran Chavan i/by CENEX Services for Petitioner/s in WP No.3110 of 2022.

Mr. Sriram Sridharan for Petitioner/s in WP No.8388 of 2019.

Mr. Rahul C. Thakar i/by C. B. Thakar for Petitioner/s in WP No.874 of 2020, WP No.2885 of 2020, WP No.9106 of 2022, WP No.9107 of 2022.

Mr. Sanket Bora a/w Ms. Vidhi Punmiya i/b SPCM Legal for Petitioner/s in WP No.521 of 2022.

Mr. Ishan Patkar a/w Mr. Yash Dhond & Ms. Chaitali Raul i/b Sangram Chinnappa for Petitioner/s in WP No.3522 of 2022.

Mr. Makrand Joshi i/b Max Legal for Petitioner/s in WP No.4494 of 2022, WP No.9109 of 2022.

Mr. Bharat Raichandani a/w Mr. Mahesh Raichandani and Mr. Rishabh Jain i/by UBR Legal for Petitioner/s in WP(ST) No.95609 of 2020.

Mr. Jitendra Motwani, Mr. Chirag Shetty, Ms. Shilpi Jain for Petitioner/s in WP No.9113 of 2022.

Mr. Pradeep S. Jetly, Senior Advocate a/w Mr. Jitendra B. Mishra, Mr. Vijay H. Kantharia, Mr. Sham V. Walve, Mr. Swapnil Bangur, Mr. Ram Ochani, Mr.PS. Patkar, Mr. Karan Adik, Ms. Ruju Thakker, Ms. Sangeeta Yadav, Mr. Dhananjay B. Deshmukh, Mr. Satyaprakash Sharma, Mr. Siddharth Chandrashekhar, Mr. Ashutosh Mishra and Mr. Amit Singh for Respondents-Union of India, Central Board of Indirect Taxes and Customs and Goods and Services Tax Council.

Ms. Jyoti Chavan, AGP a/w Mr. Himanshu Takke, AGP for Respondents – State of Maharashtra.

Mr. Vijay H. Kantharia a/w Mr. Ram Ochani for Respondent/s in WP No.8388 of 2019, WP No.9640 of 2019.

S. D. Vyas, GP B' PNL for Respondent-State in WP No.8388 of 2019@WP No.9640 of 2019, WP No.874 of 2020, WP No.2885 of 2020, WP No.9106 of 2022, WP No.9107 of 2022, WP No.4494 of 2022, WP No.9105 of 2022 Mr. Pradeep Jetly Senior Advocate, Maya Majumdar for Respondent Nos. 1 to 5 in WP No.521 of 2022.

Mr. Pradeep Jetly, Senior Advocate for Respondent Nos. 2, 3, 4 in WP No.521 of 2022.

Mr. Karan Adhik with Mr. Ram Ochani for Respondent/s in WP No.3522 of 2022.

Mr. Pradeep Jetly, Senior Advocate a/w Mr. Jitendra Mishra a/w Ms. Sangeeta Yadav for Respondent/s in WP No.9107 of 2022.

Mr. Swapnil Bangur for Respondent/s in WP No.9107 of 2022.

Mr. Ashutosh Misra for Respondent No.1-Union of India in WP No.4494 of 2022.

Mr. Jitendra Mishra, Mr. Dhananjay Deshmukh, Mr. Ashutosh Misra, Smt. R. A. Salunke, AGP for Respondent-State in WP No. 4494 of 2022.

Mr.PS. Jetly Senior Advocate with Mr. Ram Ochani, Smt. R.A. Salunkhe AGP for Respondent/s in WP No.9105 of 2022.

Mr. Pradeep Jetly, Senior Advocate for Respondent Nos.1, 2, 4 in WP No.9105 of 2022.

Mr. Jitendra Mishra, Mr. Dhananjay Deshmukh, Mr. Ashutosh Misra, Ms. Sangeeta Yadav for Respondent/s in WP No.9109 of 2022.

**CORAM : K.R. SHRIRAM &
A.S. DOCTOR, JJ.**

DATED : 29th JULY 2022

PC. :

1. The Hon'ble Apex Court in order dated 22nd July, 2022 in Petition(s) for Special Leave to Appeal(C) No(s).32709-32710 of 2018 and other matters has directed the GST Network to open the common portal to file/rectify TRAN-1 and TRAN-2 for a period of two months, i.e., with effect from 1st September, 2022 to 31st October, 2022 to enable the different private parties to avail Transitional Credit. The order reads as under :-

“O R D E R

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 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.

*The Special Leave Petitions are disposed of accordingly.
Pending applications, if any, also stand disposed of.”*

2. In the circumstances, since all the Petitioners can avail of this window, Petitions stand disposed.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)