

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 12830/2019

M/s Shri Dayalu Enterprises, Through Its Proprietor Pahlad Ram, Age 31 Years Having Principal Place Of Business At National High-Way 68, Near Choudhary Weight Bridge, Uttariai Road, Barmer- Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Commercial Taxes Officer Rajasthan Goods And Service Tax, Ward-Iv, Circle-Barmer, Office At Ambedkar Colony, Mahaveer Nagar, Barmer, Rajasthan-334001
2. Goods And Service Tax Network (Gstn), Through Its Ceo, East Wing, Worldmark 1, 4Th Floor, Tower B, Aerocity, New Delhi - 110037.

----Respondents

Connected With

D.B. Civil Writ Petition No. 5948/2019

M/s. Angel Shipping, Through Its Partner Hanumanram Bishnoi Aged About 41 Years, Having Principal Place Of Business At Plot No. 49, Jas Nagar, Khasra No. 19/01 New Pali Road, Jodhpur - 342026.

----Petitioner

Versus

1. State Of Rajasthan, Through Office Of The Assistant Commissioner, Rajasthan Goods And Service Tax, Circle C-Ii, Jodhpur- Rajasthan.
2. Goods And Service Tax Network (Gstn), Through Its Ceo, East Wing, Worldmark 1, 4Th Floor, Tower B, Aerocity, New New Delhi - 110037.

----Respondents

For Petitioner(s)	:	Mr. Prateek Gattani
For Respondent(s)	:	Mr. Kuldeep Vaishnav Mr. Adnan Belim for Mr. Hemant Dutt

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MUNNURI LAXMAN
Order**

05/08/2024

1. These civil writ petitions have been preferred under Article 226 of the Constitution of India, in sum and substance, with the

following prayers and for the sake of convenience, the facts and prayer clauses are being taken from the case being D.B. Civil Writ Petition No. 5948/2019:-

- a. To issue writ of mandamus and/or any other appropriate writ(s) for directions to the Respondents for permanent migration of the Petitioner's Firm under the same Goods and Service Tax Number (GSTN) i.e. 08ABGF5773M1ZX and accordingly activate login id with appropriate login credentials at common portal;
- b. To issue writ of mandamus and/or any other appropriate writ(s) for directions to the Respondents for allowing /filing of returns as envisaged under the provisions of the Central Goods and Service Tax Act, 2017 / Rajasthan Goods and Service Tax Act, 2017 without levy of late fees in terms of Section 47 of the CGST Act / RGST Act;
- c. To issue writ of mandamus and/or any other appropriate writ(s) for directions to the Respondents to allow the Petitioner Firm to avail benefit of input tax credit even in respect of late filing of returns beyond the period as prescribed under section 16(4) of the CGST Act/ RGST Act.
- d. To issue writ of mandamus and/or any other appropriate writ(s) for directions to the Respondents for non levy of any interest in terms of Section 50 of the CGST Act / RGST Act;
- e. To issue writ of mandamus and/or any other appropriate writ(s) for directions to the Respondents to allow the benefit of Section 34 of the CGST Act / RGST Act to the Petitioner Firm beyond the period as prescribed under Section 34 of the CGST Act / RGST Act. "

2. The brief facts of the case are that the petitioner is a Firm engaged in the business of shipping, logistic, clearing and forwarding operations. The petitioner-Firm was earlier registered

under the provisions of the Rajasthan Value Added Tax Act, 2003 with the Commercial Taxes Department, Government of Rajasthan vide TIN No.08072660739.

3. With effect from 1.7.2017, a new law was introduced namely Goods and Services Tax Act (GST) and in the said Act, the State VAT Authorities were authorised by the Goods and Services Tax Network (GSTN) for providing an ID and a Password to the existing dealers and migrating them from existing TIN numbers to new GST numbers.

4. In accordance with the Rule 24 of the CGST Rules/RGST Rules 2017, the petitioner-Firm enrolled itself at common portal (i.e. www.gst.gov.in), by validating requisite details, after which, a provisional registration number (08ABGFA5773M1ZX) in Form GST REG-25 along with login credentials i.e. login ID and password have been provided to the petitioner-Firm on 28.06.2017.

5. After provisional registration, the petitioner-Firm submitted an application at common portal with requisite documents as required in terms of Rule 24(2)(a) of the CGST Rules/RGST Rules. However, the petitioner-Firm received an email on 30.09.2017 from respondent No.3 stating that details of Permanent Account Number (PAN) provided by the petitioner-Firm while submitting requisite documents are not matching with the details under the Central Board of Direct Taxes (CBDT) database.

6. Thereafter, the petitioner-Firm re-submitted all the requisite documents at common portal for re-issuance of GST provisional ID and password with correct PAN maintained by respondent No.2. However, after a considerable period of time, when the petitioner

tried to login at the common portal with the credentials i.e. user Id and password provided at the time of provisional registration, the login was denied with a message that the last date for migration of existing taxpayer has already been passed. Whereafter, the petitioner-Firm through its consultant approached Jurisdictional Officers/Nodal Officers of the Rajasthan Goods and Services Tax Department. The petitioner-Firm also approached the helpdesk team of respondent No.2 and it received an email on 19.11.2018 from helpdesk team, wherein the petitioner-Firm was directed to approach the Nodal Officer. In terms of the aforesaid email, the petitioner-Firm approached its jurisdictional Officer/Nodal Officer and submitted all the details/documents as required in terms of Rule 24(2)(a) of the CGST Rules/RGST Rules 2017 for completion of the process of migration.

7. Learned counsel for the petitioner submits that petitioner-Firm has entered into various transactions with provisional GSTN issued by respondents under Section 139 of CGST Act/RGST Act read with Rule 24(1) of the CGST Rules/RGST Rules, but since the petitioner was unable to login at the GST portal, no returns in accordance with the provisions of CGST Act/RGST Act could be filed by the petitioner-Firm.

8. Section 139 of the CGST Act, 2017 provides for the procedure for migration of existing tax payers. For ready reference the provisions of Section 139 which came w.e.f. 22.6.2017 is quoted hereinbelow:

"Section-139. (1) On and from the appointed day, every person registered under any of the existing laws and having

a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub-section (2), shall be liable to be cancelled if the conditions so prescribed are not complied with.

(2) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed. The certificate of registration issued to a (3) person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24."

9. Rule 24 (1) of CGST Rules, 2017 provides for the migration of persons registered under the existing law. For ready reference Rule 24(1)(a) and 24(1)(b) and the proviso of the said Rule 24 is quoted hereinbelow:

"Rule-24. (1)(a) Every person, other than a person deducting tax at source or an Input Service Distributor, registered under an existing law and having a Permanent Account Number issued under the provisions of the Income-tax Act, 1961 (Act 43 of 1961) shall enroll on the common portal by validating his e-mail address and mobile number, either directly or through a Facilitation Centre notified by the Commissioner.

(b) Upon enrollment under clause (a), the said person shall be granted registration on a provisional basis and a certificate of registration in FORM GST REG-25, incorporating the Goods and Services Tax Identification Number therein, shall be made available to him on the common portal:

Provided that a taxable person who has been granted multiple registrations under the existing law on the basis

of a single Permanent Account Number shall be granted only one provisional registration under the Act."

10. The contention of the petitioner is that due to the inability to login at the common portal and in the absence of the migration, the petitioner cannot file returns or pay taxes and discharge its GST liability from July 2017 onwards. Learned counsel has submitted that in absence of the migration the petitioner-Firm is also unable to access the various online services which are available on the GST website. The contention of the petitioner is that despite there being no fault on the part of petitioner, in the given circumstances, there is every likelihood that it may suffer adverse financial consequences, apparently, due to laches on the part of authority concerned.

11. In support of such submissions, learned counsel for the petitioner placed reliance on the judgment rendered by Hon'ble Allahabad High Court on 11.10.2017 in the case of ***M/s Metro Institutes of Medical Sciences Pvt. Ltd. Vs. State of U.P. & Ors.*** in Writ Tax No.702/2017, while submitting that the said case involved the identical controversy as raised herein.

12. Mr. Kuldeep Vaishnav, learned counsel for the respondent though opposes the aforesaid submissions made on behalf of the petitioner, but could not refute the aforesaid factual matrix and the applicability of the judgment rendered in *M/s Metro Institutes of Medical Sciences Pvt. Ltd. Vs. State of U.P. & Ors.* (supra), in the present case.

13. Heard learned counsel for the parties as well as perused record of the case along with the judgment cited at Bar.

14. In the view of the aforesaid facts and in light of the judgment rendered by Hon'ble Allahabad High Court in **M/s Metro Institutes of Medical Sciences Pvt. Ltd.** (supra), we hereby direct the concerned respondent authority to immediately allow the petitioner-Firm to login on the GST portal for completing the process of migration for uploading its returns and to deposit the due tax.

15. With the aforesaid direction, the present writ petitions are allowed. All pending applications stand disposed of.

(MUNNURI LAXMAN),J

(DR. PUSHPENDRA SINGH BHATI),J

58-59-Nirmala/-