

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 28TH DAY OF JUNE 2018 / 7TH ASHADHA, 1940

WP(C).No. 20978 of 2018

PETITIONER

NAGA DISTRIBUTORS  
GROUND FLOOR, 3/75, KOCHUPURACKAL BUILDINGS, KUTTOOR,  
VALLAMKULAM ROAD, THIRUVALLA-689106, REPRESENTED BY ITS  
MANAGING PARTNER, SRI. ANIL KUMAR V.

BY ADV. SRI.K.S.HARIHARAN NAIR

RESPONDENTS:

1. UNION OF INDIA  
THROUGH ITS SECRETARY (REVENUE), MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE, GOVERNMENT OF INDIA, NORTH  
BLOCK,  
NEW DELHI-110001.
2. THE PRINCIPAL SECRETARY,  
RESPONDENT FINANCE (GST WING), FINANCE (REV-1) DEPARTMENT  
4TH LEVEL, A-WING, DELHI SECRETARIAT, I.P. ESTATE,  
NEW DELHI - 110002.
3. GST COUNCIL,  
THROUGH ITS CHAIRPERSON, DEPARTMENT OF FINANCE, NORTH  
BLOCK,  
NEW DELHI-110001.
4. GOODS AND SERVICES TAX NETWORK,  
THROUGH ITS CHAIRPERSON, EAST WING, 4TH FLOOR, WORLD  
MARK-1, AEROCITY, NEW DELHI-110037.
5. THE COMMISSIONER,  
GOODS AND SERVICES TAX DEPARTMENT, KARAMANA,  
THIRUVANANTHAPURAM, KERALA-695002.
6. THE NODEL OFFICER FOR STATE GST,  
GOODS AND SERVICES TAX DEPARTMENT, KARAMANA,  
THIRUVANANTHAPURAM, KERALA-695002.
7. THE NODEL OFFICER CENTRAL GST,  
GOODS AND SERVICES TAX DEPARTMENT, KARAMANA,  
THIRUVANANTHAPURAM, KERALA-695002. R1-3 BY ADV. SRI.N.NAGARESH, ASSISTANT  
SOLICITOR GENERAL  
R4 BY ADV. SRI.P.R.SREEJITH,SC,GOODS AND SERVICES TAX NETWORK  
R BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-06-2018,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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**Dama Seshadri Naidu, J.**

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Dated this the 28<sup>th</sup> day of June 2018

### **JUDGMENT**

The petitioner was a registered dealer under the Kerala Value Added Tax Act, now migrated to the Goods and Services Tax regime. To use the input tax available to his credit at the time of migration, the petitioner had to upload FORM GST TRAN-1 within the stipulated time. He asserts that though he attempted to upload it within the time, he failed because of some system error. The petitioner, therefore, seeks directions to enable him to take credit of the available input tax.

2. Heard the learned counsel for the petitioner, the learned Government Pleader, as well as the learned Standing Counsel for the fourth respondent, besides perusing the record.

3. The Ext.P4 is the circular issued by the Government of India for "setting up an IT Grievance Redressal Mechanism to address the grievances of taxpayers due to technical glitches on

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GST Portal.” Paragraph 5 of the circular outlines the procedure the Nodal Officers is to follow. It reads:

**5. Nodal officers and identification of issues**

5.1 GSTN, Central and State government would appoint nodal officers in requisite number to address the problem a taxpayer faces due to glitches, if any, in the Common Portal. This would be publicized adequately.

5.2 Taxpayers shall make an application to the field officers or the nodal officers where there was a demonstrable glitch on the Common Portal in relation to an identified issue, due to which the due process as envisaged in law could not be completed on the Common Portal.

5.3 Such an application shall enclose evidences as may be needed for an identified issue to establish bona fide attempt on the part of the taxpayer to comply with the due process of law

*5.4 These applications shall be collated by the nodal officer and forwarded to GSTN who would on receipt of application examine the same. GSTN shall after verifying its electronic records and the applications received, identify the issue involved where a large section of tax payers are affected. GSTN shall forward the same to the IT Grievance Redressal Committee with suggested solutions for resolution of the problem.*

(italics supplied)

4. Not only the petitioner but also many other people faced this technical glitch and approached this Court. Both the learned



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counsel submit that this Court on earlier occasions permitted the petitioners to apply to the sixth respondent for the issue resolution.

5. So, in this case also, the petitioner may apply to the sixth respondent, the Nodal Officer. The petitioner applying, the Nodal Officer will look into the issue and facilitate the petitioner's uploading FORM GST TRAN-1, without reference to the time-frame. Ordered so.

6. To set a time frame, I may also observe that if the petitioner applies within two weeks after receiving this judgment, the Nodal Officer will consider and take steps within a week thereafter. If the uploading of FORM GST TRAN-1 is not possible for reasons not attributable to the petitioner, the authority will also enable him to take credit of the input tax available at the time of migration.

With these directions, I dispose of the Writ Petition.

**Sd/- Dama Seshadri Naidu, Judge**

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APPENDIX

PETITIONER'S EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE PROVISIONAL CERTIFICATE OF REGISTRATION UNDER THE ORDINANCE DATED 21.09.2017.
- EXHIBIT P2 TRUE COPY OF THE SPECIMEN INVOICE DATED 26.06.2017.
- EXHIBIT P2(A) TRUE COPY OF THE SPECIMEN INVOICE DATED 26.06.2017.
- EXHIBIT P3 TRUE COPY OF THE REPRESENTATION FILED BY THE PETITIONER DATED 30.12.2017.
- EXHIBIT P3(A) TRUE COPY OF THE ACKNOWLEDGMENT OF EXT.P3 DATED 01.01.2018 HAS BEEN ISSUED BY THE GST NETWORK.
- EXHIBIT P3(B) TRUE COPY OF THE SCREENSHOT OF REMINDERS AND FOLLOWUP MADE BY THE PETITIONER.
- EXHIBIT P3(C) TRUE COPY OF THE SCREENSHOT OF REMINDERS AND FOLLOWUP MADE BY THE PETITIONER.
- EXHIBIT P3(D) TRUE COPY OF THE SCREENSHOT OF REMINDERS AND FOLLOWUP MADE BY THE PETITIONER.
- EXHIBIT P4 TRUE COPY OF THE CIRCULAR NO.39/13/2018-GST DATED 03.04.2018.
- EXHIBIT P5 TRUE COPY OF THE NOTIFICATION NO.21/2017 DATED 23.11.2017.
- EXHIBIT P6 TRUE COPY OF THE REPRESENTATION FILED BEFORE THE 6TH RESPONDENT DATED 16.06.2018.
- EXHIBIT P6(A) TRUE COPY OF THE REPRESENTATION FILED BEFORE THE 7TH RESPONDENT DATED 16.06.2018.

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