

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

WRIT PETITION (L) NO. 424 OF 2018

Padmavati EnterprisePetitioner
V/s.
The Union of India & Anr.Respondents

**WITH
CIVIL WRIT PETITION (ST.) NO. 2230 OF 2018**

Abicor and Binzel Technoweld Pvt. Ltd.Petitioner
V/s.
The Union of India & Anr.Respondents

**WITH
CIVIL WRIT PETITION NO. 3695 OF 2018**

Draeger Safety India Private Limited ...Petitioner
V/s.
Union of India & Ors.Respondents

**WITH
CIVIL WRIT PETITION NO. 3953 OF 2018**

AGS Transact Technologies LimitedPetitioner
V/s.
Union of India & Ors.Respondents

**WITH
CIVIL WRIT PETITION NO. 4584 OF 2018**

M/s. Arihant Vatika Realty Private Ltd. ...Petitioner
V/s.
The Union of India & Anr. ...Respondents

**WITH
CIVIL WRIT PETITION NO. 4604 OF 2018**

M/s. Arihant Abode LimitedPetitioner

V/s.
The Union of India & Anr. ...Respondents

**WITH
CIVIL WRIT PETITION NO. 4613 OF 2018**

M/s. Arihant Aashiyana Pvt. LimitedPetitioner
V/s.
The Union of India & Anr. ...Respondents

**WITH
CIVIL WRIT PETITION NO. 4615 of 2018**

M/s. Arihant Superstructures LimitedPetitioner
V/s.
The Union of India & Anr. ...Respondents

**WITH
CIVIL WRIT PETITION NO. 5092 OF 2018
(Mentioned. Not on board.)**

Sigma Electric Manufacturing Corporation
Pvt. Ltd.Petitioner
V/s.
The Union of India & Ors. ...Respondents

→ WPL 424/2018 :-

Mr. Vinayak Patkar a/w. Mr. Ishaan Patkar, Mr. Shashank Dhond,
Ms. Sneha Raut i/b. Roshni Naik for the petitioner.
Mr. Anil Singh, Addl. Solicitor General a/w. Mr. Pradeep S. Jetly
and Mr. Jitendra B. Mishra for the respondents.

→ WPST 2230/18 :-

Mr. Vinayak Patkar i/b. Roshni Naik for the petitioner.
Mr. V.A. Sanpal, Special counsel a/w. B.V. Samant, AGP for the State/
Respondent Nos.1 and 2.

→ WP 3695/18 AND WP 3953/18 :-

Mr. Sridharan, Sr. Counsel a/w. Prakash Shah i/b. PDS Legal for the
petitioner.
Mr. Pradeep S. Jetly a/w. Amol Joshi for the respondent.

→ WP 4584/18, WP 4604/18, WP4613/18 AND 4615/18 :-

Ms. Gunjan Jayakar a/w. Miheer Jaykar for the petitioner.

Mr. Pradeep S. Jetly for respondent in WP 4584/18, 4604/18 and 4615/18.

→ WP 5092/18 :-

Mr. Sridharan, Sr. Counsel a/w. Prakash Shah I/b. PDS Legal for the petitioner.

**CORAM : S.C. DHARMADHIKARI &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE : 24TH APRIL, 2018

P.C.:

. We have taken on record the additional affidavit-in-reply filed in Writ Petition (L) No.424 of 2018 and in Writ Petition (St.) No.2230 of 2018.

2. Mr. Milind Gawai, Commissioner of Central Tax Pune-I Commissionerate in his additional affidavit-in-reply filed in Writ Petition (St.) No.2230 of 2018 has, firstly, indicated that the system error or fault or what is called IT related glitch would be a grievance definitely looked into and is being looked into by Grievance Redressal Committee. In his affidavit, he has indicated as to how Nodal Officers have been appointed in terms of several circulars, copies of which are at Exhibits 'A', 'B' and 'C' to this petition. The tax payers can make an application to the Field Officers or the Nodal Officers where there was

a demonstrable glitch on the common portal (GST portal) in relation to an identified issue due to which the tax payer could not comply with the provisions of law. The Nodal Officer, upon receipt of such an application, even online but with some proof or evidence therewith, would definitely look into the same and take the remedial steps. He would forward it to the GST network. Though, the Nodal Officer would give a formal acknowledgement, even online, beyond this he would not assist the applicant so as to enable the tax payer / applicant to make a record for himself and then he can avoid further complications or eventual liabilities that may be foisted upon him for alleged non compliance with the provisions of law.

3. Apart from the above, we repeatedly inquired as to how much time all this would take, but the Additional Solicitor General says that the circular gives the tax payer time till 30th April, 2018 to access the network. This time cannot be extended. Various circulars have been issued and the deponent and such other officers at the commissionerate level will not be in a position to make a definite statement as to whether the tax payer can access the online portal beyond 30th April, 2018 or even if accesses it before this date, his grievance / complaint would be decided within a given time frame.

4. We inquired from the Additional Solicitor General whether any time limit can be prescribed so that these complaints made to the Nodal Officer can be disposed of expeditiously and promptly. That would assist both the assessee as well as the revenue and would not delay the tax collection.

5. The Additional Solicitor General, after speaking to the officers present in Court, stated that presently there is nothing which has been evolved as a time frame within which the grievance raised before the Nodal Officer could be finally resolved and determined.

6. In relation to both these matters, we feel that this Court ought not be flooded with writ petitions and particularly more in number than what is already on our file. We find that in today's affidavit it is indicated that the tax payers shall complete the process of filing of TRAN-1 stuck due to IT related glitches by 30th April, 2018 and the process of complete filing of GSTR-3B which could not be filed for such TRAN-1 shall be completed by 31st May, 2018.

7. We are not disturbing the date which has been determined for filing of GSTR-3B for that is prescribed as 31st May, 2018. Presently that is adequate and sufficient for redressing the grievance of all those

who could not access the online website portal due to the technical glitches. However, given that only 25th, 26th and 27th April, 2018 are the working days available before 30th April, 2018 and 30th April, 2018 is declared to be a public holiday, interest of justice would be served if we extend this date of 30th April, 2018 in relation to filing of TRAN-1 and which filing was not possible due to technical glitches / IT related glitches. We extend it to 10th May, 2018.

8. It is clear that this facility is extended only to those tax payers who could not access the system due to technical glitches. It is very clearly stated in the affidavit that only in the case of tax payers who could not complete the process of TRAN-1 filing either at the stage of original or revised filing due to IT related glitches, for those the facility is extended and that the last date is extended only in their case. However, those tax payers would have to provide necessary proof of their inability to access the portal due to technical glitches or a Information Technology related matter which prevented them from accessing the system earlier. This is not a facility which could be availed of for any other reason and not attributable to such glitches or system faults / errors. We accept and endorse this stand of the respondents. The writ petitions in which the complaint was that the

petitioners could not access the system on account of no fault of theirs but due to the technical glitches / IT related glitches are disposed of in these terms. We clarify that our order and direction are not a expression of opinion on the legal or other factual issues related to the returns. If the return is in any way otherwise deficient or defective in the opinion of the revenue, but not so in the submission of the assessee, then, such issues have to be resolved independently and on their own merits. Their outcome shall not be influenced by our directions. In other words, whether strict or substantial compliance is contemplated in law is a matter which must be addressed and decided in the facts and circumstances of each case independent of this direction. There would definitely be a compliance required with the provisions of law and aggrieved parties have forums to approach for redressal of other grievances arising out of the orders or directions in relation to their returns.

9. The Writ Petitions accordingly stand disposed of. No order as to costs.

(SMT. ANUJA PRABHUDESSAI, J.)

(S.C. DHARMADHIKARI, J.)