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GIVING THEM THEIR DUES IS NO ALMS



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Coming at a time when the prospects for future appear bleak, the decision of the Hon'ble High Court of Delhi in the case of Brand Equity Treaties Ltd and others is heart warming.

Scores of people have either committed various errors in filing their TRAN 1 to claim transitional credit, or filed it with mistakes or omitted certain credits or simply not filed the same, albeit not intentionally. Scores of Writ Petitions have been filed across the country and the relief granted by various High Courts varied, ranging from denial of any relief to even going to the extent of allowing them to avail the credit in GSTR 3 B.

And the above said decision of the Hon'ble High Court of Delhi is a fitting finale. The High Court has observed that the credit which has been availed validly under the erstwhile law is the property of the assessee and the conditions for transitioning it to GST regime are merely procedural and cannot impose any fetters. The High Court has enlarged the relief, by directing the Union of India, to publicise this judgement and extend similar relief to all those come forward and file TRAN 1 upto 30.06.2020, which marks the completion of 3 years of introduction of GST.

What needs to be appreciated is that the credit already availed is a current asset in the hands of the tax payers and their cash flows are budgeted by taking that into account. If suddenly such credit is not allowed to be carried forwarded, all the projections would go awry, jeopardising the business. Though the amendment made to Section 140 of the Act, enabling the Government to prescribe time limit for transitioning the credit, to overcome any legal hurdles of prescribing the time limit only by virtue of rules, was not specifically dealt with by the High Court, the far reaching observations made by the High Court would certainly whittle down the amendment.

The Government is doing commendable job by extending various relief measures, involving lakhs of crores of rupees to tide over the corona crisis. Allowing every tax payer who have missed to file their TRAN 1 or committed mistakes in filing the same, another window upto 30.06.2020 would go a long way in mitigating the hardship of such assesses. After all it is their own money.

Hope the Government would graciously accept the judgement in all earnestness and not rush to the Hon'ble Supreme Court.

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