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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010554002022**

\+ W.P.(C) 9008/2022

DELL INTERNATIONAL SERVICES INDIA PRIVATE LIMITED .....Petitioner

Through: Ms. Charanya Lakshmi Kumaran, Mr. Yogendra Aldak, and Mr. Kunal Kapoor, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Shubham Tyagi, SSC with Ms. Narmiti Ojha, Advocate.
Mr. Devvrat Yadav, Mr. Kartik Sharma, Mr. M. Chawla, and Mr. Pearl Sharma, Advocates.
Mr. Abhinav Sharma, Advocate for R-4.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN
HON'BLE MR. JUSTICE BHARAT PARASHAR

O R D E R

% 23.11.2026

1. By way of this petition under Article 226 of the Constitution, the petitioner assails a communication dated 05.01.2021, by which the Goods and Services Tax ["GST"] authority has declined its request for utilization of the transition credit for the period July 2017 to November 2017 and consequential benefits.

2. We have heard learned counsel for the parties.

3. The facts are undisputed. The petitioner was an assessee under the

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erstwhile Service Tax regime, which transitioned in the year 2017 to the GST regime. At the time of transition from the Service Tax regime, the petitioner was entitled to CENVAT credit of Rs. 3,00,46,015/- thereunder. By virtue of the transitional mechanism under Section 140 of the Central GST Act, 2017, it was entitled to avail of the said amount as Input Tax Credit ["ITC"] in the GST regime. However, due to certain issues in the operationalisation of the required form [Form GST TRAN-I], the petitioner could not avail of this credit. Consequently, it discharged its GST liability by deposit of exactly the same sum in July 2017. It thereafter sought refund of the amount, which was declined by the impugned communication.

4. It is the undisputed position that this Court has in *Vision Distribution Pvt. Ltd. v. Commissioner, State Goods & Services Tax & Ors.* [W.P.(C) 8317/2019, decided on 12.12.2019] [hereinafter, "*Vision Distribution*"] and thereafter in *Clyde Pumps Private Limited v. Union of India & Ors.* [W.P.(C) 4400/2022, decided on 04.12.2025] [hereinafter, "*Clyde Pumps*"] granted relief to similarly placed assessees. In both those cases, it was found that the assessee could not avail of ITC due to non-operationalisation of Form GST TRAN-I on the GST portal.

5. In *Vision Distribution*, this Court held as follows:

> "*7. Having heard learned counsels, we are inclined to direct partial refund of the amount claimed by the Petitioner.* ***We are of the view that the Petitioner cannot be made to suffer on account of failure on the part of the Respondents in devising smooth transition to GST regime w.e.f. 01.07.2017, from the erstwhile indirect taxation structure****. The Petitioner, being an exporter under the GST regime is entitled to undertake zero rated supplies. The Petitioner claims to have undertaken exports in the months of July and August, 2017 and since its unutilized Input Tax Credit – to the tune of Rs. 3,13,06,050/-, which was accumulated up to June, 2017, was not reflected in its ITC ledger*

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as on 01.07.2017, it could not utilize the same w.e.f. 01.07.2017. The same resulted in the Petitioner having to shell out, in cash, Rs. 1,37,37,029/- which would not have been required, had the Respondents taken care to ensure that the Petitioner was able to utilize its accumulated Input Tax Credit in the said months. ***Even the Form GST TRAN-1 was made available on the portal of the Respondents only from 25.08.2017. The business activity in the country could not be expected to come to a standstill, only to await the Respondents making the GST system workable.*** *The failure of the Respondents in first putting a workable system in place, before implementing the GST regime, reflects poorly on the concern that the Respondents have shown to the difficulties that the trade faced throughout the length and breadth of the country. Unfortunately, even after passage of over two years, the Respondents have not remedied their omissions and failures by taking corrective steps. They continue to take shelter of the limitations in, and the inability of their software systems to grant refund, despite the same being justified. The rights of the parties cannot be subjugated to the poor and inefficient software systems adopted by the Respondents. The software systems adopted by the Respondents have to be in tune with the law, and not vice versa. The system limitations cannot be a justification to deny the relief, to which the Petitioner is legally entitled. We, therefore, reject the hyper technical objections sought to be raised by the Respondents - to the effect, that no refund can be granted, because the system did not reflect any credit lying in the ITC ledger of the Petitioner for the months of July and August, 2017. If that is so, it is entirely the Respondents making. In fact, to permit the Respondents to get away with such an argument would be putting premium on inefficiency. We therefore, reject the submission.*

8. The Petitioner claims that it is entitled to a complete refund of Rs. 3,05,09,355/- as explained hereinabove. So far as the Petitioner's claim for refund of cash deposit to the tune of Rs. 1,37,37,029/- is concerned, that, in our view can certainly not be denied to him. For the aforesaid reasons, we direct the Respondents to refund the amount Rs. 1,37,37,029/- to the Petitioner within four week from today. While making the refunds, it shall be open to the Respondents to debit the Petitioner's ITC ledger by the same amount. This is also agreeable to the Petitioner. So far as the Petitioner's claim for the refund of the remaining amount is concerned, the Petitioner has already submitted the documents in that regard. The Respondents are directed to pass a reasoned order on the same within four weeks."

[Emphasis supplied.]

A special leave petition [SLP(C) under Diary No. 16998/2020] against

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the aforesaid judgment dated 12.12.2019 was permitted to be withdrawn *vide* order of the Supreme Court dated 15.02.2021.

6. Relying *inter alia* upon the said judgment in *Vision Distribution*, in *Clyde Pumps*, this Court held as follows:

> "*22. **In the present case, due to a glitch in the GST portal, the Petitioner could not file the form TRAN-01** and since the form could not be filed in time, the distribution could not take place as per Rule 39(1)(a) of the CGST Rules within one month. **Hence, the Petitioner cannot be deprived of the benefit of the ITC due to mere technical glitches or transitional creases which were ironed out subsequently**.*
> *23. Under these circumstances, the Court is of the opinion that the legitimate ITC which the Petitioner is entitled to distribute to its sub-offices cannot be held back due to such technical objections. The ITC which is clearly reflected in TRAN-1 would be liable to be reflected on the Electronic Credit Ledger (hereinafter, 'ECL') of the Petitioner for distribution within a period of three months.*
> *24. Accordingly, let the Delhi GST Department reflect the amount of Rs.99,18,972/- on the ECL of the Petitioner. If the same is to be done with the co-operation of the GST Network (hereinafter, 'GSTN'), the GSTN shall also give effect to this order within a period of three months. From the date when the ECL reflects the said amount, upon intimation to the Petitioner, the Petitioner would have one month to distribute the credit to its sub-offices.*"
>
> [Emphasis supplied.]

7. We are informed that, in the present case, the credit of Rs.3,00,46,015/- to which the petitioner is entitled, has since been reflected in its GST portal. However, it is unable to avail of the said credit due to business fluctuations. Ms. Charanya Lakshmi Kumaran, learned counsel for the petitioner, submits that following the judgments in *Vision Distribution* and *Clyde Pumps*, the GST authorities may be directed to refund the said amount.

8. Mr. Shubham Tyagi, learned Senior Standing Counsel for the respondents, submits that there is no factual dispute with regard to the case, or to the applicability of the judgments in *Vision Distribution* and

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Clyde Pumps.

9. It emerges from the above that, if the Form GST TRAN-I had been operationalised on the GST portal at the relevant time, the petitioner would have been in a position to avail of the credit of the aforesaid amount and would not have been required to deposit the same amount again. The petitioner cannot, in our view, be prejudiced by the delay in putting in place an effective transitional mechanism.

10. Consequently, the GST authorities are directed to refund the amount of Rs. 3,00,46,015/-, deposited by the petitioner in July 2017, to the petitioner, and adjust it against the credit now available in the petitioner's GST account. Naturally, this is subject to availability of the corresponding credit in the petitioner's account as of date.

11. The writ petition is disposed of with the aforesaid directions.

PRATEEK JALAN, J

BHARAT PARASHAR, J

NOVEMBER 23, 2026
"B"/MK/

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