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

\+ W.P.(C) 3309/2019

LEASE PLAN INDIA PRIVATE LIMITED

..... Petitioner

Through: Mr. Sparsh Bhargava, Mr. Vipin Upadhyay and Mr. Vasu Nigam, Advocates.

versus

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI & ORS.

..... Respondent

Through: Mr. Satyakam, ASC, GNCTD. Mr. Harpreet Singh and Ms. Suhani Mathur, Advocates.

**CORAM:**
**HON'BLE MR. JUSTICE VIPIN SANGHI**
**HON'BLE MR. JUSTICE SANJEEV NARULA**

**O R D E R**

**%** **13.09.2019**

**C.M. No. 41096/2019**

Issue notice. Mr. Singh accepts notice.

This application has been moved by the petitioner for issuance of directions in view of the order dated 22.07.2019 passed in W.P. (C.) No. 3798/2019, ***M/s Blue Bird Pure Pvt. Ltd. versus Union of India & Ors.***

The submission of learned counsel for the petitioner is that the said decision covers the case of the petitioner as well. In short, the case of the petitioner is that though the petitioner had filed its TRAN-I Form before the cut-off date i.e. 22.12.2017, due to inadvertent error, the petitioner had claimed ITC of Rs. 2,23,18,390/- instead of Rs. 3,99,49,705/-. Soon upon realising the said bona fide mistake, the petitioner sent an e-mail on 04.01.2018 to the GST Help Desk and requested for grant of opportunity to amend the GST TRAN-I Form. The petitioner, thereafter, sent reminder but to no avail. Since the petitioner's grievance remained unaddressed, the petitioner has preferred the present writ petition.

In ***M/s Blue Bird Pure Pvt. Ltd.*** (supra), this Court dealt with the similar grievance of the petitioner herein. The petitioner in that case had also filed the TRAN-I Form within the prescribed period. However, on account of an inadvertent error, the columns had not been correctly filled up and consequently, the ITC was not granted to the petitioner. The petitioner's request for opening the portal to enable him to again file TRAN-1 electronically or to manually file revised TRAN-I Form was also not entertained. This Court after referring to the decision in ***Bhargava Motors v. Union of India***, dated 13.05.2019 in WP(C) 1280/2018 and ***Kusum Enterprises Pvt. Ltd v. Union of India***, 2019-TIOL-1509-HC-DEL-GST allowed the said petition. The effective directions issued by the Court reads as follows:

> *"15. Accordingly, this Court directs the Respondents to either open the online portal so as to enable the Petitioner to again file the rectified TRAN-I Form electronically or accept the manually filed TRAN-I Form with the correction on or before 31st July, 2019.*
>
> *16. The Petitioner will correspondingly be permitted to thereafter file the return in TRAN-2. The penalty and interest*

> *for the late filing of GSTR-3Bwill be waived off in view of the above directions, subject, of course, to the Petitioner being permitted to and in fact filing the rectified TRAN-1 Form as directed."*

Learned counsel for the respondents fairly does not dispute the position that the present case is covered by the decision in ***M/s Blue Bird Pure Pvt. Ltd.*** (supra). We may additionally add that the credit standing in favour of an assessee is property and the assessee could not be deprived of the said property save by authority of law in terms of Article 300 (A) of the Constitution of India. There is no law brought to our notice which extinguishes the said right to property of the assessee in the credit standing in their favour.

Thus, we direct the respondent to either open the online portal so as to enable the petitioner to file the rectified TRAN-I Form electronically, or to accept the same manually with correction, on or before 20.09.2019.

The petitioner's revised claim be processed in accordance with law once the corrected TRAN–I Form is filed.

The petition stands disposed of in the aforesaid terms.

Dasti.

**VIPIN SANGHI, J**

**SANJEEV NARULA, J**

**SEPTEMBER 13, 2019**
***N.Khanna***