

Tax Dept told to permit correction of errors to allow businesses to get GST transitional credit

Trade, industry set to get major relief

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The Bombay High Court has directed the Centre to issue an order allowing trade and industry to rectify errors in form TRAN 1 so that human typo errors can be corrected.

Form TRAN 1 helps businesses get benefit of input tax credit due as on or before June 30, 2017, transferred under the GST regime.

O/E/N India Ltd had submitted its form TRAN 1 to enable the unutilised Cenvat credit from the pre-GST regime transferred. But there was a typographical error, due to which it was indicated that Cenvat credit available was ₹11,10,555 instead of ₹1,11,05,550.

The company approached tax authorities asking to be allowed to correct it or even file a fresh

form. However, it was refused on the grounds that there is no provision in the GST Act, which allows correction/rectification of such errors.

The court pointed out that human errors such as the one in the petition may have taken place in other cases too. "At times these mistakes in keying in the correct figure would work in favour of the state and at other times in favour of assesses," it said.

The court's attention was drawn to Section 172 of the GST Act, which inter alia provides for removal of difficulties that may arise during the implementation of the Act. Accordingly, the court said, "It appears to us that it would be appropriate that the Central Government issues a general and/or special order under Section 172 of the Act addressing the above issue on general or special basis, taking into account the ground realities."

The matter has been listed for hearing for October 10.

Glimmer of hope

Commenting on the ruling, Abhishek Jain, Tax Partner at EY India, said that while the final order of the High Court is awaited, "the direction to the government for addressing the ground realities will bring a glimmer of hope for various players who have been struggling to find a remedy for the inadvertent errors made by them in GST TRAN 1."

Form TRAN 1 can be used by a registered or unregistered person under any pre-GST mechanism, that is, VAT, Central Excise or Service Tax. Similarly, Form TRAN 2 can be used by an unregistered person during pre-GST regime, not having any document showing evidence of tax payment. These taxes may have been paid while purchasing inputs, raw materials, semi-fin-

ished goods, finished goods, or on materials sent to a job worker.

For most businesses, these taxes were available as input credit on July 30. And moving these to the GST regime is important to take benefit of them. The Central Board of Indirect Taxes and Customs framed transition rules, invoking which businesses could move credit of the old regime to GST.

Last month, the Centre notified new dates for submitting Form TRAN 1 and TRAN 2 for certain categories of assesseees. Form 1 can be submitted by March 31, 2019 by registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the GST Council has made a recommendation for such extension. Similarly, the last date for assesseees filing Form 2 is April 30.