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

+ CONT.CAS(C) 62/2022 & CM APPL. 3629/2022

THE BRITISH MOTOR CAR COMPANY (1934) PVT LTD

THROUGH RAJINDER KAPOOR A R Petitioner

Through Mr. A. K. Babbar and Mr. Surendra
Kumar, Advocates

versus

ASSISTANT COMMISSIONER, OFFICE OF THE ASSISTANT
COMMISSIONER, CGST & ANR. Respondents

Through Mr. Satish Kumar, Sr. Standing
Counsel for Respondents

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **23.03.2022**

1. Instant contempt petition has been filed for non-compliance of the order dated 27.05.2021 passed by this Court in W.P.(C) 2326/2020 whereby the Respondents were directed to either re-open the online portal so as to enable the Petitioners to file TRAN-I form electronically for claiming tax credit or to accept the same manually on or before 30.06.2021 and process the same in accordance with law.

2. It is stated that in compliance of the said order, the Petitioner herein filed the requisite form manually on 15.06.2021 for a claim of ₹25,51,002/- and the Respondent/Department vide communication dated 23.08.2021 had replied as under:

“Please refer to your office letter dated 22.07.2021 on the above mentioned subject matter.

In this regard, the Assistant Commissioner (Legal) vide their letter of even no 2950 dated 02.07.2021 inform this office that the department had not accepted the Hon'ble Delhi High Court Order dated 27.05.2021 and Proposal for filing SLP before the Hon'ble Supreme Court of India had been sent to the CBIC, Legal Cell, New Delhi for setting aside j quashing of Hon'ble Delhi High Court order and for stay for operation of the Order of Hon'ble Delhi High Court .

Further, it is also submitted that the Hqrs. Legal Branch vide their office letter dated 03.07.2021 informed that the Hon'ble Supreme Court of India stayed the Delhi High Court order dated 05.05.2020 in the case of M/ s Brand Equity Treaties Limited (WPC No. 11040/2018) vide order dated 19.06.2020(copy enclosed).

In the light of above, as Hon'ble Supreme Court of India stayed the Hon'ble Delhi High Court order in the TRAN-1 matter, and in the similar matter department proposal for filing appeal against the above subject Hon'ble High Court of Delhi Final order dated 27.05.2021 before the Hon'ble Supreme Court of India. Hence, this office is not able to process your TRAN-1 request until final outcome of the appeal filed by the department in the Hon'ble Supreme Court of India .

This is for your kind information please.”

3. Learned counsel for the Petitioner states that even on the date when the writ petition was disposed of, an SLP against the judgment of this Court dated 05.05.2020 in M/s Brand Equity Treaties Limited and Anr. v. Union of India was already pending and *de hors* the pendency of that petition, this Court passed the order dated 27.05.2021 in W.P.(C) 2326/2020. He, therefore, states that the pendency of SLP against the order of this Court in

M/s Brand Equity Treaties Limited in W.P.(C) No. 11040/2018 cannot be a reason for not complying with the order dated 27.05.2021 passed by this Court in W.P.(C) 2326/2020.

4. Mr. Satish Kumar, learned counsel appearing for the Respondents, accepts notice and seeks time to file a reply. He states that there is no wilful default in the compliance of the order dated 27.05.2021 passed by this Court in W.P.(C) 2326/2020 inasmuch as the issue in M/s Brand Equity Treaties Limited would have a bearing on the judgment of which compliance is sought for.

5. Let the reply be filed within four weeks from today. Rejoinder thereto, if any, be filed within two weeks thereafter.

6. Learned counsel for the Petitioner seeks permission to file amended Memo of Parties by giving the name of the Officer who, according to the Petitioner, has violated the order of this Court.

7. Let the amended Memo of Parties be filed before the next date of hearing.

8. List on 22.07.2022.

SUBRAMONIUM PRASAD, J

MARCH 23, 2022

Rahul

