$~31

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

Decided on 27th March, 2015

\+ ST.APPL. 21/2015

INTERNATIONAL METRO CIVIL CONTRACTORS ..... Petitioner

Through: Ms.Kavita Jha, Mr.Shammi Kapoor, Ms.Purva Juneja and Ms. Shraddha, Advs.

versus

COMMISSIONER OF TRADE & TAXES, DELHI ..... Respondent

Through: Ms.Ruchi Sindhwani, ASC with Ms.Bandana Shukla, Adv.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE R.K.GAUBA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

%

1. The substantial question of law sought to be urged by the appellant in respect of the order of Delhi VAT Appellate Tribunal (DVAT) dated 16.02.2015 passed in the appeal Nos.247-256/ATVAT/08-09 and 484-509/08-09, relates to delayed payment of interest on the pre-deposit required by the Tribunal through an earlier order.

2. On 07.09.2011, the DVAT had required the appellant to make a payment of ₹2.61 crores as pre-condition to the hearing of his appeal. The appellant could not, however, comply with the direction but did so about three years later. In these circumstances, by the impugned order Tribunal directed it to pay 15% interest for the intervening period. The appellant contends that the impugned order passed creates tremendous hardships and

is extremely harsh, highlighting that the requirement for pre-deposit is only a condition for hearing of appeal and not meant to be a further barrier in the due disposal on merits. Learned counsel states that the direction of payment of 15% interest under the circumstances is not tenable.

3. Learned counsel for the Revenue, on the other hand, submitted that since the appeal itself was not disposed of, the assessee had to comply with the order. Its belated attempt to do so was correctly sanctioned with payment of 15% per annum interest.

4. This Court is of the opinion that Section 76(4) primarily empowers the Tribunal to make appropriate orders for waiver of either the full or part pre-deposit. Although this power includes the power to make other directions, the present direction to pay interest 15% per annum on belated payment of deposit has acted as a further barrier and caused hardship.

5. In these circumstances, the Tribunal's order is hereby modified. Instead of direction to pay 15% interest for belated payment, the appellant is hereby directed to deposit ₹10 lacs. This amount shall be deposited within four weeks from today. Subject to verification of compliance, the appeal shall be heard. The appeal is partly allowed in the above terms.

6. Dasti.

S. RAVINDRA BHAT, J

R.K.GAUBA, J

MARCH 27, 2015
mr