$~
* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
12.
\+ **W.P.(C) 4222/2016**

VAISHNO WIRE PVT. LTD. ..... Petitioner
Through: Mr. Vineet Bhatia and Ms. Neha Chaudhary Advocates.

versus

COMMISSIONER OF VALUE ADDED TAX ..... Respondent
Through: Mr. Sanjay Dewan, Advocate.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **11.05.2016**

1. Notice. Learned counsel for the Respondent accepts notice.

2. This is yet another writ petition by a dealer registered under the Delhi Value Added Tax Act, 2004 ('DVAT Act'), seeking de-sealing of its premises which were sealed by the Department of Trade & Taxes ('DT&T') by order dated 4th February 2016 under Section 60 of the DVAT Act.

3. The Petitioner applied to the DT&T way back on 12/14th March 2016 for de-sealing of its premises. It also sent a reminder on 4/6th April 2016. However, there has been no response till date.

4. This Court has in ***Larsen & Toubro Ltd. v. GNCTD (2016) 89 VST 35 (Del.)*** explained the legal position as regards the exercise of powers under Section 60 of the DVAT Act. The Court has passed several orders in similar

matters directing de-sealing of the business premises. The Court was conscious that the sealing of the premises, even assuming to be legitimate, for a period beyond what is absolutely necessary, would severely prejudice the dealer. An illustrative sampling of such orders is as under:

(i) Order dated 27th January 2016 in W.P.(C) No. 714 of 2016 in ***(Shree Ashtvinayak Gems & Stone Pvt. Ltd. v. Commissioner, Trade & Taxes, Delhi.)***

(ii) Order dated 29th January 2016 in W.P.(C) NO. 759 of 2016 ***(Bhupinder Auto International v. Commissioner, Trade & Taxes)***

(iii) Order dated 10th February 2016 in W.P.(C) No. 1145 of 2016 ***(Jatalia Global Ventures Ltd. v. Commissioner of Trade & Taxes, Delhi)***

(iv) Order dated 4th March 2016 in W.P.(C) No. 1937 of 2016 ***(Worldwide Communication v. Commissioner of Trade & Taxes)***

5. The Court is satisfied that in the present case the continued sealing of the Petitioner's premises is contrary to the legal position explained by the Court in the above orders. Accordingly it is directed that the business premises of the Petitioner at F-4/3, Main Road, Shastri Nagar, Delhi-110052 shall be de-sealed forthwith and in any event not later than 4 pm on 13th May 2016 in the presence of the authorized representative of the Petitioner. It is pointed out that the printouts of the data from the sole personal computer in the premises have already been taken by the DT&T. The proceedings of the de-sealing shall be drawn up and signed by the representative of the Petitioner as well as the concerned VATO.

6. Learned counsel for the Petitioner states that demand has already been created pursuant to the sealing of the premises which the Petitioner will pursue in accordance with law. No further directions are called for in this petition.

7. The petition is disposed of in the above terms.

8. The question regarding constitutional validity of Section 60(4) of the DVAT Act and Rule 22(2) and 23(1) of the Delhi Value Added Tax Rules, 2005 is kept open for consideration in an appropriate case.

9. A copy of this order be given *dasti* under the signature of the Court Master.

S. MURALIDHAR, J

VIBHU BAKHRU, J

MAY 11, 2016
mg