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

\+ W.P.(C) 6335/2014

ITD-ITD CEM JV ..... Petitioner

Through: Mr. Rajesh Jain, Mr. Virag Tiwari and Mr. K.J.Bhat, Advs.

versus

COMMISSIONER OF TRADE & TAXES ..... Respondents

Through: Sh. Ramji Srinivasan, Sr. Advocate with Sh.Gautam Narayan, Sh. R.A. Iyer, Sh. Vivek Paul Oriel, Advs. and Mr. Kuldeep Singh Jt. Commissioner (Spl. Zone), Mr. SP.Tiwari, Asstt. Commissioner (Spl. Zone).

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% **03.10.2016**

In this writ petition, the petitioner challenges the impugned Audit Report and default notices of assessment of tax, interest and penalty issued under Sections 58, 32 and 33 of the Delhi Value Added Tax Act, 2004 (in short 'the Act'), respectively, by the VATO on 16.7.2014 for the year 2010-11. The grounds of challenge are that the Audit Officer lacks power to complete the assessment proceedings. A direction to quash them is sought.

Essentially, the writ petitioner/assessee contends that there was no authorisation on behalf of the respondent State, permitting the VATO for conducting the audit under Section 58 of the Act. It is also contended that the Audit Officer was not competent to complete the assessment.

We find that this issue is squarely covered by a decision of this Court in *Capri Bathaid Pvt. Ltd. and Ors. v. Commissioner of Trade and Taxes* 2016 (155) DRJ 526 (DB). In the circumstances, this position has not been fairly disputed on behalf of the respondent/department. The writ petition deserves to be allowed; the impugned order dated 16.07.2014 as well as the order of the VATO demanding VAT, interest and penalty are hereby quashed. The writ petition is allowed in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

OCTOBER 03, 2016

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