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

+ **W.P. (C) 6137/2016 & W.P. (C) 6138/2016**

VASCON ENGINEERS LTD.

..... Petitioner

Through: Mr. Rajesh Jain with Mr. Virag Tiwari,
Advocates.

versus

COMMISSIONER OF TRADE & TAXES

..... Respondent

Through: Mr. Satyakam, Addl. Standing Counsel,
GNCTD.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **19.09.2016**

These petitioners claim interest on amounts of excess VAT deposited with the revenue/respondent for the period June and July, 2009. The refunds were made in 2014. That the respondents have conceded to the petitioners' claim for the interest till 2014 and released the sum of ₹36,97,096/- by an order dated 14.09.2016 is not denied. Mr. Jain, learned counsel, however, urges that given the further delay in interest claim, the petitioners are entitled to proportionate interest on the said amount withheld for the last two years.

This Court is of the opinion that the remedy to seek recourse to proceedings under Section 226 of the Constitution of India was and is

always available in such circumstances - as also is the remedy to approach the Civil Court. In the given circumstances, the Court cannot, therefore, be oblivious that the petitioners too were under the duty to mitigate their injury which they did not (even though they contend that some letters were addressed to the respondents).

Having regard to these overall circumstances, the claim for further interest - upon the said amount of ₹36,97,096/- is not warranted as such. At the same time, there cannot be any denial that the petitioners were deprived of the legitimate use of the said amount for almost two years. To strike a balance, therefore, the respondents are hereby directed to pay ₹50,000/- (Rs. Fifty thousand) as compensation in each of these petitions. Respondents shall ensure that the amount is remitted to the petitioners within four weeks.

The writ petitions are allowed in the above terms.

S. RAVINDRA BHAT, J

V. KAMESWAR RAO, J

SEPTEMBER 19, 2016

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