$~
* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
16.
\+ **W.P.(C) 6559/2016**

BAS ENGINEERING PRIVATE LIMITED ..... Petitioner
Through: Mr. A.K. Babbar, Mr. Surinder Kumar, Mr. Atul Babbar , Ms. Ruchi Babbar and Ms. Amita Babbar, Advocates.

versus

COMMISSIONER OF DELHI VALUE ADDED TAX & ANR. ..... Respondents
Through: Mr. Satyakam, Additional Standing Counsel for GNCTD with Mr. Kaushal Kishore, VATO, Ward-204.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE NAJMI WAZIRI

O R D E R
% **29.07.2016**

W.P.(C) 6559/2016 & CM No. 26889/2016 (for stay)

1. Notice. Mr. Satyakam, Additional Standing Counsel for the Respondents accepts notice.

2. There are two grounds, *inter alia*, on which the Petitioner is aggrieved by orders dated 25^{th} March 2016 passed by the Value Added Tax Officer ('VATO'), Ward-204, Delhi of default assessments of tax and penalty under

Sections 32 and 33 of the Delhi Value Added Tax Act, 2004 ('DVAT Act') for the period March 2012. One is that the orders were passed without giving a hearing to the Petitioner. It appears that the aforementioned orders were passed in petitions filed by the Petitioner seeking review of the assessment order dated 23rd December 2015. The said review petitions were listed on 16th February 2016 but not taken up on that date. The Petitioner was not informed of the next date of hearing. The petitions were apparently taken up next on 25th March 2016 and disposed of ex parte by the impugned orders. Secondly, it is pointed out that 25th March 2016 was a gazetted holiday and, therefore, the impugned orders could not have been passed on that day.

3. Although the ideal course for this Court to adopt would be to itself set aside the above orders and relegate the Petitioner to avail the remedy of an appeal before the Objection Hearing Authority ('OHA') under Section 74 of the DVAT Act against the order which was sought to be reviewed i.e. the assessment order dated 23rd December 2015, learned counsel for the Petitioner points out, and rightly, that an appeal against that order would be time barred and the OHA cannot in terms of the proviso to Section 74 of the DVAT Act condone the delay beyond a period of four months after the date

of service of the order in appeal.

4. In that view of the matter, the Court clarifies that it would now be open to the Petitioner to file appeals before the OHA against the impugned orders dated 25th March 2016 passed by the VATO Ward-204. If the appeals are filed not later than one week from today, the OHA will take them up for hearing immediately and pass appropriate orders in accordance with law.

5. The petition and the application are disposed of in the above terms.

6. A copy of this order be given *dasti* to learned counsel for the parties under the signature of Court Master.

S. MURALIDHAR, J

NAJMI WAZIRI, J

JULY 29, 2016
dn