$~10, 11, 35 & 49

% 19.09.2016

Present: Mr. Raj K. Batra, Advocate along with Mr. Sumit K. Batra, Advocate for petitioner in Item No. 49.
Mr. P. Roychaudhury, Addl. Standing Counsel for GNCT and Mr. Aamir Aziz, Advocate for the respondents in Item nos. 10,11,35 and 49.

+ **W.P.(C) 7136/2016 & CM No. 29401/2016**
+ **W.P.(C) 7171/2016 & CM No. 29501/2016**
+ **W.P.(C) 7035/2016**
+ **W.P.(C) 6984/2016 & CM No. 28664/2016**

The claim in this writ petition is limited; refund of excess VAT amount to the tune of ₹ 3768003/- with interest has been sought. It is stated by the revenue's counsel that pursuant to the previous directions of the court, the amount claimed as refund has been released. The petitioner, however, complains that even though interest is a matter of right, the revenue is withholding the same.

It appears that the revenue was informed about the directions, despite which the concerned officer inexplicably has formed the opinion that in the absence of a specific direction, interest upon such refunds is inadmissible. This court is of the opinion that such a view is unwarranted and in fact illegal given the mandate of Section 42 of the Delhi VAT Act read with Rule 34 (6) of the Rules. The view is also fortified by the previous decision in the Division Bench judgment in ***Trusine Electronics Pvt. Ltd. vs. Govt. of NCT of Delhi,*** decided on 07.09.2010 in W.P.(C) No. 3504-12/2010 Accordingly, revenue is directed to ensure release of interest amounts upon said refund claim in this petition (₹ 3768003) forthwith and ensure that the amount is remitted together with up to date interest, within the next 72 hours. The writ petition is allowed in the above terms. In the peculiar circumstances of the case, the petitioner is entitled to cost quantified ₹ 20,000/- to be recovered from the concerned officer, who had refused to deposit the interest upon the refund claim.

In W.P.(C). No. 7035/2016, however, the order of recovery of Rs. 20,000/- from the salary of the VATO would not apply. This is because the record reveals that the VATO had in fact recommended release of interest; that proposal was however refused by the Special Commissioner. In these circumstances, the direction to recover the amount from the VATO would not apply.

Accordingly, the costs for the writ petition- W.P.(C) No. 7035/2016 shall be recovered from the salary of the concerned officer.

The Government of NCT of Delhi shall file an action taken report with respect to the direction vis-a-vis recovery of amounts from the individual officers in each of these cases.

An appropriate action taken report be prepared to file in the court.

List on 28.11.2016 for reporting compliance with these directions.

Order *dasti.*

S. RAVINDRA BHAT, J

V. KAMESWAR RAO, J

SEPTEMBER 19, 2016/*sapna*