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

\+ W.P.(C) 8066/2016

M/S P.K. ENTERPRISES ..... Petitioner

Through: Sh. A.K. Babbar, Sh. Surendra Kumar, Sh. Atul Babbar, Ms. Ruchi Babbar, Ms. Amita Babbar and Sh. Bharat Tripathi, Advocates.

versus

COMMISSIONER OF DELHI VALUE ADDED TAX & ANR. ..... Respondents

Through : Sh. P. Roychaudhari, Advocate.

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

O R D E R

% 04.10.2016

The petitioner's grievance is that though it was assessed to NIL demand, and consequently the amount deposited being refundable, no steps have been taken by the DVAT Department to ensure that the amounts are repaid.

This Court had issued notice and directed the respondents to work-out the refund amounts together with interest payable and further ensure that they are paid into the petitioner's account. Sh. P. Roychaudhuri, Advocate, submits, on instructions that even though the petitioner's assertions about the assessment at NIL demand is correct, nevertheless, since input credits were claimed by the petitioner from certain dealers, the transactions relating to it are suspect and are under investigation and hence the refund claimed cannot be processed at this stage.

The judgments of this Court with respect to the liability of the DVAT Department and the authorities to process and release refund amounts together with interest is categorical [refer to *Teleworld Mobiles Pvt. Ltd. v. Commissioner of Trade and Taxes,* W.P.(C) 6747/2016 and *Prime Papers and Packers v. Commissioner of VAT & Ors.,* W.P.(C) 6013/2016]. The Court had held that wherever assessments are completed, the refunds are to be processed and satisfied within 60 days as indicated in Section 38(3) of the DVAT Act. In these circumstances, as to whether there are input credit transactions that are suspect or are pending investigation is irrelevant. The DVAT authorities have independent statutory powers that enable them to reopen proceedings having regard to the subsequent facts gathered which cannot in any way relieve them of the obligation to comply with the mandate of Section 38(3). Accordingly, a direction is issued to the respondents to ensure that a refund order is issued to the petitioner within two weeks and the refund amount together with interest payable according to law is paid into the petitioner's account a week thereafter.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

OCTOBER 04, 2016
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