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

\+ W.P.(C) 4901/2015

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 inaction of the VATO in granting refund to the tune of ₹9,94,35,199/-. This amount is due to the petitioner for the month of July, 2010 under the Delhi Value Added Tax Act, 2004 (in short 'the Act'), for which claim was made in the return filed for the said tax period on 27th August, 2010. A direction to grant refund is sought. Essentially, the writ petitioner/assessee contends that there was no authorisation on behalf of the respondent State, permitting the VATO for conduct of 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 disputed by the respondent/department. The writ petition is allowed; the impugned order dated 16.07.2014 as well as the order of the VATO demanding VAT, interest and penalty are hereby quashed.

In view of this order, the claim in W.P.(C) No.4901/2015 succeeds. The respondents are directed to process the VAT refund for the amounts deposited by the petitioner in compliance with the demands. Respondents are directed to process the refund claims and ensure that the payments are made at the earliest, together with up-to-date interest and in any event within three weeks from today.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

OCTOBER 03, 2016

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