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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P.(C) 5499/2015**

ANIL TRADING CORPORATION ..... Petitioner
Through: Mr. Rajesh Jain with Mr. Virag Tiwari, Mr. K.J.Bhat, Mr. Mukul Guupta, Ms. Vidhi Gupta and Mr. Rajesh Agarwal, Advocates.

versus

COMMISSIONER OF TRADE & TAXES ..... Respondent
Through: Mr. Sanjay Ghose and Ms. PratishthaVij, Advocates.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

<u>O R D E R</u>
% **25.02.2016**

<u>W.P.(C) 5499/2015 & CM 9884/2015 (for stay) & CM 27388/2015</u>

1. The challenge in this writ petition by M/s. Anil Trading Corporation is to default orders of assessment of tax, interest and penalty dated 12th January 2015 issued by the Assistant Value Added Tax Officer ('AVATO') of Ward 59 under Sections 32 and 33 of the Delhi Value Added Tax Act, 2004 ('DVAT Act').

2. The above orders were preceded by a system generated notice issued to the Petitioner under Section 59(2) of the DVAT Act on 29th December 2014 alleging that purchases had been made by the Petitioner from suspicious

dealers and requiring the Petitioner to produce books of accounts and other evidence. This notice was also issued by the AVATO of Ward 59.

3. One of the main grounds on which the impugned orders dated 12th January 2015 have been challenged is that the jurisdictional officer as far as the Petitioner is concerned, is the VATO of Ward 62 whereas the impugned orders have been passed by the AVATO of Ward 59.

4. During the course of the hearing today, Mr. Sanjay Ghose, learned counsel appearing for the Respondent, on instructions, states that the Respondent concedes to this Court setting aside the impugned orders dated 12th January 2015 subject to the Petitioner appearing before the jurisdictional VATO i.e. the VATO of Ward 62 with the accounts and records and agreeing to provide information as may be sought by the jurisdictional VATO.

5. In that view of the matter, the Court sets aside the impugned order dated 12th January 2015 passed by the AVATO, Ward 59 under Sections 32 and 33 of the DVAT Act. However, the Petitioner through an authorised representative will remain present before the VATO, Ward 62 on 8th March 2016 at 11 am and produce the books of accounts and other evidence and also provide any other information as may be sought by the VATO, Ward 62. Any material that may have been gathered against the Petitioner will be provided to the Petitioner to enable the Petitioner to offer an explanation. If the material relied upon by the VATO includes the statement of any person, the Petitioner will be afforded the right to cross-examine such person.

6. The writ petition and the applications are disposed of in the above terms

S. MURALIDHAR, J

VIBHU BAKHRU, J

FEBRUARY 25, 2016/dn