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

\+ W.P.(C) 9252/2016, CM APPL. 37361/2016

AESTHETIC PACKAGING ..... Petitioner

Through: Mr Vasdev Lalwani, Mr Sunil Agarwal, Mr. Rohit Gautam and Mr. Mohit Gautam, Advs.

versus

COMMISSIONER OF VAT & ANR. ..... Respondents

Through: Mr. Satyakam, Addl. Standing Counsel, Govt. of NCT of Delhi with Ms. Poonam, VAT(C).

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

O R D E R

% 21.11.2016

We have heard the learned counsel for the parties. The petitioner seeks a direction for refund of the amount deposited together with interest. The respondent VAT Department (Commissioner of VAT) submits that although returns were filed for two quarters for the year 2011, nevertheless notices of default assessment of tax and interest under Section 32 of the Delhi Value Added Tax Act, 2004 (DVAT Act) of all tax and interest premised upon previously issued notices under Section 59 of DVAT Act (on 13.06.2012, 06.08.2012 and 08.08.2012) had remained unserved and as a result, the refund claims could not be acceded to, and in fact, were rejected.

This Court has considered the submissions.

The authority of the ruling in ***Prime Papers & Packers v. Commissioner of VAT & Anr.*** WP(C) 6013/2016 decided on 28.07.2016 clearly states that the notice under Section 59 of the DVAT Act, if at all, has to be issued within the overall time frame indicated by the Act which is two months. Consequently, the notices in question even if they were served upon the assessee, do not conform the Rule that was issued much later in the year 2012. What is more disturbing to this Court, however, is that all seven notices produced and relied upon by the Revenue demand "zero" from the assessee and assessed turnover at "zero". It is not only to the utter dismay of the Court but is entirely un-comprehensible and goes completely untenable.

So called orders, copies of which are produced and hereby taken on record, are hereby quashed. The respondents are directed to process the petitioner's application and pass appropriate orders within a week. Any amount deposited by the petitioner, shall be refunded after adjusting tax due together with interest payable in accordance with law within a period of two weeks.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

NOVEMBER 21, 2016/acm