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

\+ W.P.(C) 9408/2014

JMD DIGITAL ART XCHANGE PVT. LTD. ..... Petitioner
Through : Sh. Rajesh Jain and Sh. Virag Tiwari, Advocates.

versus

COMMISSIONER OF TRADE & TAXES ..... Respondent
Through : Sh. Gautam Narayan, ASC with Sh. R.A. Iyer, Advocate.
Ms. Meena Golani, AVATO (Ward-91)

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

**O R D E R**

**% 10.08.2016**

In this writ petition, the order of 09.12.2014 made by the Special Commissioner as well as the default notices of assessment of VAT, interest and penalty, issued on 21.05.2014 are being questioned. A direction to quash them 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 DVAT Act, 2004. It is also contended that the auditing 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 fairly disputed on behalf of the respondent/department. In the circumstances, the writ petition is allowed; the impugned order dated 09.12.2014 as well as the order of the VATO dated 21.05.2014 for VAT, interest and penalty are hereby quashed. The writ petition is allowed to the above limited extent.

**S. RAVINDRA BHAT, J**

**DEEPA SHARMA, J**

**AUGUST 10, 2016**
**'ajk'**