$~58

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

\+ W.P. (C) 11020/2016, CM APPL.43074/2016

M/S GLOBAL CERAMICS PVT. LTD. ..... Petitioner

Through: Mr. A.K. Babbar with Mr. Bharat Kumar Tripathi, Advocates.

versus

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

Through: Mr. Satyakam, Addl. Standing Counsel, GNCTD.

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

<u>O R D E R</u>

% **21.11.2016**

Issue notice.

Mr. Satyakam, Advocate accepts notice.

The petitioner is aggrieved by the reassessment order. It is urged that the reassessment order is vitiated inasmuch as the Commissioner could not have for the reasons adduced reopen the assessment that had achieved finality, beyond the four years' period in the circumstances of the case. Besides, argues counsel, the impugned order is further vitiated inasmuch as it has in the course of the proceedings relating to Central Sales Tax Act, reviewed the liability under the DVAT Act, which is *ex facie* beyond jurisdiction.

The tax and interest liability worked out in the reassessment order is in excess of ₹93 lakhs; the penalty imposed is ₹53 lakhs.

We have considered the submissions of the parties and are of the opinion that the petitioner must avail and exhaust its appellate remedies. In case it approaches the Objection Hearing Authority (OHA) within two weeks from today, its appeal/objections shall be heard on merits. It is further directed that the petitioner shall deposit 10% of the tax liability (without interest and without any requirement of pre-deposit of penalty). This amount shall be deposited simultaneously with the filing of the appeal within two weeks. It is clarified that if this requirement is fulfilled, the OHA will decide the appeal or objections on merits at its earliest convenience. All submissions of the petitioner on merits shall be considered.

The petition is disposed of in the above terms along with pending application.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

NOVEMBER 21, 2016
/vikas/