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

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\+ **W.P.(C) 413/2017**

SAINATH TRADEDHOME PVT.LTD. ..... Petitioner

Through Mr. Suhail Anjum Siddiqui, Mr. M. A. Ansari and Mr. Prabhat Arora, Advocates

versus

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

Through Mr. Anuh Aggarwal, ASC for GNCTD and Ms. Deboshree Mukherjee, Advocate with Mr. Satish Kumar, VATO Ward No.-45

CORAM: JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR

O R D E R

% **26.04.2017**

1. In the present petition an inspection was carried out by learned counsel for the Petitioner of the relevant file. The Petitioner states in its rejoinder noticed only two order sheets were found in the file for the second quarter of 2015-16. There was nothing as regards the first quarter 2015-16 regarding the issuance of a notice under Section 59(2) of the Delhi Value Added Tax Act 2004 (DVAT 2004) dated 5th October 2016 (Annexed –R-1 to the counter affidavit of the respondent). He further pointed out that in the rejoinder, that for the first quarter of 2015-16 no notice has been issued under Section 59(2) of the DVAT Act.

2. Learned counsel for the Respondent is unable to dispute that there is no other file with the Department. The Court is of the view that the VATO in question who had first to record the reasons in file before issuing the notice under Section 59(2) of the DVAT Act failed to do so. It reflects lack of knowledge of the basic requirement of law prior to the exercise of statutory powers.

3. In view of the fact that Officers from different departments of the GNCTD are posted as VATO, they must first undergo an intensive orientation course on the DVAT Act and Rules thereunder to enable them to familiarize themselves with the provisions of law as well as procedure and in particular the necessity of recording reasons on the file before exercising statutory powers.

4. The court is constrained, therefore, in the present case set aside the notice issued by the VATO under Section 59(2) of the DVAT Act, 2004 dated 5th October 2016 for the I and II quarter 2015-16.

5. At this juncture, the counsel for the Petitioner pointed out that his associate appeared before the VATO with a typed application seeking refund but that application was not entertained.

6. Consequently, as of now there is no barrier to processing the claim for refund. If the VATO requires any document then he will inform the Petitioner in writing not later than one week from today. It is made clear

that in any event the VATO will process the refund claim and pass appropriate orders for payment of the refund and interest directly into the Petitioner's account not later than ten days thereafter.

7. The Court further directs that the DVAT Department will abide by the above time lines. In the event that the Petitioner has any grievance either on account of non-payment of the refund amount together with interest as directed or non-compliance with any of the above directions, it would be open to the Petitioner to seek appropriate remedies in accordance with law.

8. The petition is disposed of.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

APRIL 26, 2017
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