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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1541/2017 & CM No. 6914/2017
GARG ROADLINES Petitioner

Through: Mr. Ruchir Bhatia, Adv.

versus

COMMISSIONER, TRADE & TAXES & ANR. Respondent

Through: Mr. Anuj Aggarwal, ASC with Ms.
Deboshree Mukherjee, Adv. and Mr. Jitender
Kumar, VATO & Ms. Priyanka Rani, LA.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **22.03.2017**

The petitioner has claimed a refund of Rs. 4,06,24,323/- along with interest towards excess VAT amount paid by it for various periods. The respondents were directed on 20.02.2017 to process the petitioner's application and make necessary orders; they were also directed to ensure that the amounts were remitted. It is informed by the respondents i.e. DVAT Department that on 17.02.2017 a notice was issued under Section 74A of the DVAT Act proposing to revise an order. Though the notice is unclear as to which period is involved, the details of the proposal, as contained in the file produced in Court by the respondents, clarify that it is in respect of the refund claimed for Rs. 12,55,471/- for the second quarter of AY 2010-11. The file further reports that the query which has led to the notice i.e. "whether the dealer is allowed to make inter-state sale i.e. to registered dealers of other States Haryana, Punjab and Himachal Pradesh, and the fact that the Assessing Authority failed to take the issue further with authorities of BPCL to clarify the ambiguity".

It is stated by the counsel for the respondents that another writ petition i.e. WP(C) 2282/2017 was preferred by the present petitioner, in which, on 10.03.2017, the show cause notice dated 17.02.2017 and further proceedings emanating therefrom have been stayed. That writ petition is now listed on 12.04.2017.

It is quite evident from the above discussion that only impediment which the Revenue/ DVAT has put forward to withhold the petitioner's claim for the larger sum of over Rs. 4 crores is the fresh show cause notice under Section 74A issued on 17.02.2017. Considering the circumstances, this Court is of the opinion that the respondents should, while processing the petitioner's claim for refund of Rs. 4 crores, keep aside the amount of Rs. 12,55,471, which is proposed to be adjudicated through the show cause notice impugned in WP(C) 2282/2017. It is ordered accordingly. Needless to add, interest for the balance – (₹4.06 crore – ₹12,55,471/-), payable to the petitioner excluding interest for the withheld, shall be calculated and paid to the petitioner. The Respondents shall comply with this direction within three weeks from today.

The petition is, accordingly, disposed off.

A copy of this order be given *dasti* to parties under the signatures of the Court Master.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 22, 2017/kk