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

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\+ **W.P.(C) 2042/2017**

SHAILA ENTERPRISES ..... Petitioner
Through: Mr. Vineet Bhatia, Advocate

versus

COMMISSIONER OF VALUE ADDED TAX ..... Respondent
Through: Mr. Satyakam, ASC with Mr. Raj Kumar, VATO

CORAM: JUSTICE S.MURALIDHAR
JUSTICE CHANDER SHEKHAR

O R D E R

% 02.05.2017

1. The Petitioner is aggrieved by and seeking the quashing of the orders dated 23rd, 26th and 29th December 2016 of Notices of default assessments of tax and interest and penalty under Sections 32 and 33 of the Delhi Value Added Tax Act 2004 (DVAT Act) for the year 2012-13 and 2013-14. The Petitioner further seeks a direction to the Respondent DVAT Department to issue to the Petitioner the refunds due for the aforementioned periods together with the interest thereon.

2. Having heard learned counsel for the parties, the Court is of the view that with the refund amounts being overdue in terms of Section 38 of the DVAT Act, the VATO could not have proceeded to adjust the demand created for the above periods against the pending refund claims. Accordingly the Court directs that the Respondent DVAT Department will not later than four

weeks from today, process the Petitioner's refund claims without reference to the demands created by the impugned notices of default assessments and pay into the Petitioner's account directly the refund amount together with interest due thereon, subject to such terms as may be permissible in law.

3. As far as fresh demands created against it by the orders dated 23rd, 26th and 29th December 2016 of Notices of default assessments of tax and interest and penalty under Sections 32 and 33 of the DVAT Act, although the Petitioner is prepared to demonstrate that it has provided all the requisite information and that the demands are unjustified, the Court is of the view that the Petitioner should go before the Objection Hearing Authority (OHA). The question of limitation if any in filing the objections will be considered by the OHA keeping in view the period during which the present petition was pending.

4. The petition is disposed of in the above terms. In the event of non-compliance with the above directions, it will be open to the Petitioner to seek appropriate remedies in accordance with law.

S.MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 02, 2017
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