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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
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\+ **W.P.(C) 2695/2017**

ABB INDIA LTD ..... Petitioner
Through: Mr. R. Jawahar lal with Mr. Siddharth Bawa and Mr. Shyamal Anand, Advocates.

versus

THE COMMISSIONER TRADE TAXES & ANR ..... Respondents
Through: Mr. Satyakam, Additional Standing counsel along with Mr.Nitya Nand and Mr. Manoj, VATO and Mr. Amit Sharma.

AND

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\+ **W.P.(C) 2696/2017**

ABB INDIA LTD ..... Petitioner
Through: Mr. R. Jawahar lal with Mr. Siddharth Bawa and Mr. Shyamal Anand, Advocates.

versus

THE COMMISSIONER TRADE TAXES & ANR ..... Respondents
Through: Mr. Satyakam, Additional Standing counsel along with Mr.Nitya Nand and Mr. Manoj, VATO and Mr. Amit Sharma.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE CHANDER SHEKHAR

ORDER
% **09.05.2017**

1. These writ petitions by ABB India Limited seek directions for refund of

the amounts deposited with the Respondent, Department of Trade & Taxes (DT&T), Government of NCT of Delhi ('GNCTD') for the two Assessment Years ('AYs'). Writ Petition (Civil) No. 2695 of 2017 pertains to the refunds due for AY 2006-06 and Writ Petition (Civil) No. 2696 of 2017 pertains to the refunds due for AY 2006-07.

2. As far as AY 2005-06 is concerned, the Petitioner made total pre-deposit of Rs. 2,80,99,102 on various dates between 27th July 2009 and 29th August 2012 where as for AY 2006-07 the Petitioner made total pre-deposit Rs. 1,20,67,555 between 22nd March 2011 and 29th August 2012.

3. The Petitioner succeeded before this Court and demonstrated the demand created by the DT&T for both the AYs in question were unsustainable in law. That decision was delivered by this Court on 28th September 2012 in ***ABB Limited v. Commissioner, Delhi VAT 194 (2012) DLT 97 (DB)***. The DT&T filed Special Leave Petitions (SLPs) in the Supreme Court. The said SLPs were dismissed on 5th April 2016.

4. On 30th April 2013 the Petitioner addressed two letters of the same date to the DT&T requesting for refund of the amounts deposited by it together with interest. Along with these letters, the Petitioner also deposited DVAT Forms-21 with the DT&T.

5. The present controversy is about the shortfall of interest in the refunds made by the DT&T to the Petitioner. In terms of the calculation of the Petitioner, for both the AYs 2005-06 and 2006-07, the total amount due as refund, i.e., principal amount plus interest works out at Rs. 3,72,76,056 (for

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AY 2005-06) and Rs. 1,56,86,154 (for AY 2006-07). On the other hand, the amount refunded to the Petitioner by the DT&T on 29th April 2017 for the AY 2005-06 is Rs. 2,98,72,491 and for AY 2006-07 it is Rs. 1,28,29,299.

6. The difference in the calculation is because the DT&T has worked out the interest only from 5th April 2016 i.e. the date of the dismissal of its SLPs by the Supreme Court.

7. After some arguments, both sides have agreed that interest should be paid on the refund amounts due from the date of the making of the claim for refund i.e. 30th April 2013.

8. It is accordingly directed that the interest due to the Petitioner for both AYs will be re-worked by the DT&T on the above basis i.e. for the period from 30th April 2013 upto 29th April 2017 and the differential amount in respect of both the AYs will be paid by the DT&T to the Petitioner not later than 30th June 2017.

9. The petitions are disposed of in the above terms. In the event of non-compliance with the above directions, it would be open to the Petitioner to seek appropriate remedies in accordance with law.

S. MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 09, 2017/*Rm*