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

\+ **W.P.(C) 2432/2017**

BANSAL LUBE TRADERS ..... Petitioner
Through: Mr. Nitin Gulati, Advocate.

versus

COMMISSIONER, TRADE & TAXES & ANR. ..... Respondents
Through: Mr. Siddharth Dutta, Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% 08.09.2017

1. Counsel for the Petitioner states that except for a sum of Rs.36,261/-, the Petitioner has received the refund amount with interest for the remaining period. As far as the above amount is concerned, it pertained to the period in respect of which the Appellate Tribunal, Value added Tax ('AT') had by order dated 8th July, 2014 directed the VATO concerned to pass a fresh assessment order. In terms of Section 34 (2) of the Delhi Value Added Tax Act, 2004 ('DVAT Act'), the fresh assessment order had to be passed within one year thereafter i.e. 8th July, 2015. Admittedly, the VATO did not pass a fresh assessment order by that date.

2. Learned counsel for the Revenue states that although the AT had directed the Assessee to appear before the VATO on 30th July, 2014, the Assessee failed to do so. This has been disputed by learned counsel for the Petitioner. He states that the Assessee regularly kept following up with the matter and

had also appeared before the VATO concerned.

3. Clearly, there is a dispute whether the Assessee appeared before the VATO as directed by the AT. However, the fact remains that irrespective of the Assessee appearing, the VATO had to pass a fresh assessment order on or before 8th July, 2015. The VATO did not comply with the Section 34 (2) of the DVAT Act.

4. In the circumstances there is no justification in the Respondent withholding the said amount of Rs.36,261/-. The said sum is now directed to be refunded to the Petitioner within four weeks from today together with the interest due thereon.

5. The petition is disposed of in the above terms.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

SEPTEMBER 08, 2017
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