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

\+ **W.P.(C) 3901/2017**

M/S M S ELECTRICALS .... Petitioner

Through: Mr. Puneet Rai, Advocate.

versus

COMMISSIONER OF TRADE & TAXES, & ANR...... Respondents

Through: Mr. Siddharth Dutta, Advocate.

CORAM: JUSTICE S. MURALIDHAR
JUSTICE CHANDER SHEKHAR

O R D E R

% **05.05.2017**

CM No. 17169/2017

1. Allowed, subject to all just exceptions.

WP(C) No. 3901/2017

2. Notice. Mr. Siddharth Dutta, Advocate accepts notice.

3. The grievance of the Petitioner is that after the previous orders were passed by this Court on 10th February, 2017 and 15th March, 2017 in WP(C) 1224/2017 requiring the Respondents/DVAT Department to make the refund which had been pending since February 2012, the Value Added Tax Officer, Ward 50 has on 17th March, 2017 issued a notice in default assessment of tax and interest under Section 22 of the Delhi Value Added Tax Act, 2004for the third quarter of 2011.

4. In a large number of judgments of this Court, including the recent ones – the orders dated 25th April, 2017 in WP(C) No. 3502/2017 (***Smart Mobile Technology Pvt. Ltd. v. Commissioner of VAT***) and the order dated 3rd May, 2017 in WP(C) No.1001/2017 (***Asian Polymers v. Commissioner of Trade & Taxes***) – this Court has reiterated that pendency of the refund application should not be viewed as an opportunity by the DVAT Department to re-open past assessments and create fresh demands.

5. Faced with this difficulty, learned counsel for the Respondent assures the Court that the balance refund equivalent to the fresh demand created and which was withheld will be paid into the account of the Petitioner together with the interest due thereon positively within three weeks from today.

6. The Court accordingly quashes the notice of default of assessment dated 17th March, 2017 and directs that the refund amount withheld together with interest due thereon be credited directly to the Petitioner's account not later than three weeks from today. If there is any non-compliance with this order, it will be open to the Petitioner to seek appropriate remedies in accordance with law.

6. The petition is disposed of.

S. MURALIDHAR, J

CHANDER SHEKHAR, J

MAY 05, 2017/tp