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

\+ **W.P.(C) 7937/2016 & CM No. 32961/2016 (stay)**

SHYAM AVTAR LIGHTS PVT. LTD. ..... Petitioner

Through : Mr. Rajesh Jain, Mr. Virag Tiwari and Mr. Deepak Gupta, Advs.

versus

COMMISSIONER OF TRADE & TAXES ..... Respondent

Through : Mr. Satyakam, ASC with Mr. Prashant Prasad, AVAO, Ward -15, DTAT.

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% **10.07.2017**

1. The Petitioner is a dealer registered both under the Delhi Value Added Tax Act, 2004 ('DVAT Act') and the Central Sales Tax Act, 1956 ('CST Act'). The prayers in the petition are (i) to quash and set aside the default notices of assessments of tax, interest and penalty all dated 12th July, 2016 issued under Sections 32 & 33 of the DVAT Act for the Assessment Year ('AY') 2014-15 and (ii) to direct the Respondent Department of Tarde & Taxes ('DT&T') to grant the refund calimed for the said AY together with interest accrued thereon.

2. Mr. Satyakam, learned Additional Standing Counsel for the DT&T, on instructions, states that the DT&T are withdrawing all the notices dated 12th

July, 2016 of the default assessments of tax, interest and penalty issued under Sections 32 and 33 of the DVAT Act forthwith. He further states that if time-bound directions are issued regarding issuance of fresh notices in accordance with law and for hearing the Petitioner followed by passing of appropriate orders they will be complied with.

3. Mr. Rajesh Jain, learned counsel appearing for the Petitioner points out that once the impugned notices of the default assessment of tax, interest and penalty under Sections 32 and 33 of the DVAT Act stand withdrawn, the Petitioner's prayer for grant of the refund for the said period i.e., AY 2014-15 together with interest would revive and that the time period for processing the said refund claim has already long expired.

4. In view of the above submissions made, and since the default notices of tax, interest and penalty all dated 12th July, 2016 issued to the Petitioner by the DT&T under Sections 32 and 33 of the DVAT to the Petitioner stand withdrawn, prayer (i) does not survive. It is directed that the DT&T will serve upon the Petitioner, if so advised, fresh notices in accordance with law not later than 10 days from today. The date of personal hearing of the Petitioner before the authority concerned will be fixed not later than two weeks thereafter. After hearing the Petitioner, appropriate orders will be passed in accordance with law not later than two weeks after conclusion of the hearing. As reagrds prayer (ii) it is directed that the DT&T will within the same period issue orders regarding the refund claim of the Peitioner made under the DVAT Act. It is made clear that the DTAT will be liable for the payment of interest for the period of delayed refund in accordance with

law.

5. In case of non-compliance of the above directions, it would be open to the Petitioner to seek appropriate remedies in accordance with law.

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

7. Order be given *dasti* under the signature of the Court Master.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 10, 2017
dk