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

+   **W.P.(C) 4391/2017**

SHYAM AVTAR LIGHTS PRIVATE LTD.   ..... Petitioner

Through : Mr. Rajesh Jain, Mr. Virag Tiwari, Ms.Aastha Gandhi, Mr.V.K. Jain, Advocates.

versus

COMMISSIONER OF TRADE & TAXES   ..... Respondent

Through : Mr. Naushad Ahmed Khan, ASC for GNCTD.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE PRATHIBA M. SINGH

O R D E R

%   02.11.2017

After some hearing, learned counsel for the petitioner has agreed to the suggestion given by the court that he shall avail of the alternative statutory remedy under Section 74 of the Delhi Value Added Tax Act, 2004 ('Act' in short). We may note that the issue raised in the present case is partly covered by the judgment of this court dated ***Vizien Organics v. Commissioner of Trade & Taxes and Another (2017) 98 VST 369***. However, the operation of the said judgment has been stayed by the Supreme Court vide order dated 1st February, 2017 in the Special Leave Petition preferred by the Government.

2. Learned counsel for the petitioner submits that as per sub-Section (4) of Section 74 of the Act, objections are to be filed within a period of two months from the date of the service of the assessment, or order or decision.

The proviso to the said section stipulates that delay can be condoned for a further period of two months.

3. In the present case, the petitioner was bona fidely pursuing the present writ petition in this court and hence, we feel that in case the petitioner avails its remedy under Section 74 of the Act, on or before 15th November, 2017, the said proceedings will not be dismissed on the ground of limitation. The said concession/exclusion would be in accordance with Section 14 of the Limitation Act.

4. We may note that the counsel for the respondent has also agreed to the said concession/exclusion without accepting the claim on merits.

5. Recording the aforesaid, the writ petition is disposed of.

SANJIV KHANNA, J.

PRATHIBA M. SINGH, J.

NOVEMBER 02, 2017

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