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

+ **W.P.(C) 5578/2017**

AFCONS INFRASTRUCTURE LIMITED Petitioner
Through : Mr. Puneet Agarwal, Mr. Deepak
Anand & Mr. Deepak, Advocates.

versus

COMMISSIONER OF TRADE AND TAXES, DEPARTMENT OF
TRADE AND TAXES & ANR. Respondents
Through : Mr. Satyakam, ASC for Govt. of NCT
of Delhi with Mr. Amit Sharma, LA.

**CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH**

% **ORDER**
07.07.2017

CM No.23403/2017 (exemption)

1. Allowed, subject to all just exceptions.

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2. Notice.

3. Mr. Satyakam, Additional Standing Counsel accepts notice. Learned counsel for the Petitioner points out that photocopies of C Forms have already been provided by the Petitioner. This is, however, disputed by Mr Satyakam.

4. To resolve the controversy, it is directed that on 10th July 2017 at 11 am, the authorised representative of the Petitioner will remain present before the Value Added Tax Officer ('VATO'), with the originals of the 'C' Forms. The VATO will verify the originals and return them to the Petitioner. Thereafter, within two weeks, the refund orders will be issued. Within one week thereafter the refund amount together with interest payable thereon will be deposited to the Petitioner's account directly by the Department.

5. Mr. Satyakam states that the interest payable under Section 42 of the Delhi Value Added Tax, 2004, will begin running only from the date on which the originals of the 'C' forms are produced before the VATO, which is disputed by learned counsel for the Petitioner. It is noted that a similar stand taken by the Department has been rejected by this Court in its decision dated 19th January, 2017 in W.P.(C) No.10701/2016 (***Vizien Organics v. Commissioner, Trade & Tax***). By an order dated 1st February, 2017 in SLP (Civil) No.3496 of 2017 (***Commissioner, Trade and Taxes v. Vizien Organics***), the Supreme Court has, while directing notice to issue, stayed the operation of the above decision of this Court.

6. Consistent with the orders passed in similar cases, including the order dated 21st April, 2017 in W.P.(C) No.3422 of 2017 (***Rakesh Trading Company v. Commissioner of Delhi Value Added Tax***), this Court directs that pending the decision of the Supreme Court in SLP No.3496 of 2017, the Respondent shall undertake that, in the event of the Supreme Court upholding the order of this Court, the entire balance interest amount that has

been withheld shall to be paid to the Petitioner within four weeks from the date of the order of the Supreme Court.

7. The petition is disposed of.

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

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 07, 2017
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