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

\+ **W.P.(C) 5517/2017**

COMBINED TRADERS ..... Petitioner

Through: Mr. Rajesh Jain, Advocate with Mr. Virag Tiwari, Ms. Aastha Gandhi, Advocates.

Versus

COMMISSIONER OF TRADE & TAXES ..... Respondent

Through: Mr. Anuj Aggarwal, ASC with Ms. Deboshree Mukherjee, Advocate

CORAM: JUSTICE S.MURALIDHAR
JUSTICE PRATHIBA M. SINGH

O R D E R

% **05.07.2017**

C.M. No. 23208 /2017 (Exemptions)

1. Allowed, subject to all just exceptions.

W.P.(C) No. 5517/2017

2. Notice. Mr. Anuj Aggarwal, the learned Additional Standing Counsel accepts notice for the Respondent.

3. Learned counsel for the Petitioner points out that he is in possession of the 'C' and 'H' Forms. It is further stated that the Value Added Tax Officer ('VATO') is not prepared to accept the originals.

4. To resolve the controversy, it is directed that on 6th July, 2017 at 11:00 am, the authorized representative of the Petitioner will remain present before the VATO with the originals of the 'C' and 'H' Forms. The VATO will verify the originals and return them to the Petitioner. Thereafter, within two weeks, the refund orders will be issued together with interest payable thereon and will be deposited to the Petitioner's account directly by the Department.

5. Mr. Aggarwal states that the interest payable under Section 42 of the Delhi Value Added Tax Act, 2004 will begin to run only from the date on which the originals of the 'C' and 'H' 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 Writ Petition (Civil) 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 in the above terms.

S.MURALIDHAR, J

PRATHIBA M. SINGH, J

JULY 05, 2017
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