$~9 to 12, 19, 23, 26, 28, 29, 30-31, 32-35, 37-38, 56 to 58, 60, 62, 64, 65, 80, 84, 86, 87, 88, 91, 93, 94, 95-96

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

\+ **W.P.(C) 564/2017; W.P.(C)565/2017, W.P.(C)566/2017; W.P.(C)567/2017; W.P.(C)893/2017; W.P.(C) 11787/2016; W.P.(C) 34/2017; ; W.P.(C) 83/2017; W.P.(C) 84/2017; W.P.(C) 133/2017; W.P.(C)142/2017; W.P.(C)143/2017; W.P.(C)144/2017; W.P.(C)149/2017; W.P.(C)152/2017; W.P.(C)206/2017; W.P.(C)208/2017; W.P.(C) 11959/2016; W.P.(C)11960/2016; W.P.(C)11961/2016 ; W.P.(C)11970/2016 ; W.P.(C)12000/2016; W.P.(C)12056/2016; W.P.(C)12059/2016; W.P.(C) 12123/2016; W.P.(C)12141/2016; W.P.(C)12143/2016; W.P.(C)12146/2016; W.P.(C)12147/2016; W.P.(C)12150/2016; W.P.(C)12184/2016; W.P.(C)12185/2016; W.P.(C)12202/2016; W.P.(C)12203/2016**

Through: Sh. Aseem Mehrotra and Sh. M.K. Gandhi, Advocates, for petitioner, in Item Nos. 30, 60 and 64.

Sh. Rakesh Kumar, Advocate, for petitioner, in Item Nos.9 and 37.

Sh. A.K. Babbar, Sh. Surendra Kumar, Sh. Atul Babbar, Ms. Amita Babbar and Ms. Ruchi Babbar, Advocates, for petitioners, in Item Nos.56, 58, 84 & 88.

Sh. Agrim Bhasin and Sh. Sushil Gaba, Advocates, for petitioner, in Item Nos. 57 & 62

Sh. Vasdev Lalwani and Sh. Rohit Gautam, Advocate, for petitioner, in Item No.86.

Sh. S.K. Khurana, Advocate, for petitioner, in Item Nos. 87,91,93,94,95 & 96.

Sh. Raj Kumar Batra with Sh. Hardik Bedi and Sh. Kapil Chaudhary, Advocates, for petitioner, in Item No.11 & 114

Sh. Nitin Gulati, Advocate, for petitioner, in Item Nos.27, 32, 33, 35 and 12.

Sh. Chanderkant Singh, Advocate, for petitioner, in Item Nos. 7, 10, 18, 26, 23, 103, 34, 92 and 110.

Sh. Rajesh Mahna, Advocate, for petitioner, in Item No.19.
Sh. Sudhir Sangal, Advocate, for petitioners, in Item Nos.28, 29, 38, 65

Sh. Rahul Sharma and Sh. C.K. Bhatt, Advocates, for respondent, in Item Nos. 8, 17, 19, 27, 33, 34, 61, 62, 81, 83 and 86.
Sh. Varun Nischal, Advocate, for respondent, in Item Nos. 11 and 35.
Sh. Udit Gupta, Advocate with Sh. Amit Sharma, Legal Assistant.
Sh. S.K. Seth and Ms. Dolly Sharma, Advocates, for respondent, in Item No.30.
Sh. Manmeet. S. Arora, Advocate, for respondent, in Item No.84.
Sh. Naunidh. S. Arora, Advocate, for respondents, in Item Nos. 87, 93 and 95.
Sh. Shadan Farasat and Sh. Ahmed Said, Advocates, for respondent, in Item Nos.26 and 57.
Sh. Anuj Aggarwal, ASC with Ms. Deboshree Mukherjee, Advocate, for respondent, in Item No.9
Sh. Siddhartha Shankar Ray, Advocate, for respondent, in Item Nos.10, 65 & 88.
Sh. S.K. Sethi and Ms. Dolly Sharma, Advocates, for respondents, in Item Nos. 30.
Sh. Satyakam, ASC for GNCTD in Item Nos.10, 12, 23, 28, 29, 31, 64, 91, 94 & 96,
Sh. Siddhartha Shankar Ray, Advocate, for respondent, in Item No.37.
Sh. Siddharth Dutta, Advocate, for respondents, in Item Nos.56, 58 & 80.
Sh. R.A. Iyer, for Sh. Gautam Narayan, ASC, for respondent, in Item No.60 along with Ms. Sakshi Bajaj, Legal Assistant, DVAT and Sh. Daljit Singh, VATO.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **27.02.2017**

In all these cases, the DVAT Department, on advance notice, submits that the refund claims have been approved with interest.

It is stated, however, in W.P.(C) 566/2017; W.P.(C) 84/2017; W.P.(C) 206/2017; W.P.(C) 12141/2016 and W.P.(C) 12143/2016 that the refund claims include amounts towards C-Forms and other statutory documents under the Central Sales Tax Act. Learned counsel submits that the Division Bench judgment of this Court in *Vizien Organics v. Commissioner, Trade and Taxes and Anr. and connected matters* [W.P.(C) 10701/2016, decided on 19.01.2017] has been stayed and that consequently, the claims to the extent they covered these amounts may be treated separately.

It is submitted that in W.P.(C) 11961/2016 and W.P.(C) 11970/2016, although the refund amounts have been approved, some adjustments have been made on account of pending demands. Regarding this issue, learned counsel points out that the pending demands are not yet outstanding in terms of Section 35(1) of the DVAT Act since 60 days are available to the assessee to honour the demands or shortfall, as the case may be. In light of the submissions made, it is directed that all refund amounts together with interest which are admittedly payable by the DVAT Department shall be made to the petitioner within a week from today.

As regards to those petitions where C-Form issue and the delay, if any, together with the question of interest are concerned, the Court hereby directs that the balance amounts shall be paid to the petitioners with such interest as is applicable. With respect to the amounts/refund claims towards C-forms, the parties shall be bound by the final decision of the Supreme Court.

As far as the question of adjustment of amounts is concerned, in view of the clear mandate of Section 35(1), the adjustments shall be made by the Revenue. The refund amount shall be credited to the petitioners' account. At the same time, balance payable in respect of the demands, it is open to the respondents/Revenue to pursue its remedy for recovery of such amounts. The writ petitions are disposed off in the above terms.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

FEBRUARY 27, 2017/ajk