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

\+ W.P.(C) 591/2018

ANUJ ELECTRICALS ..... Petitioner

Through: None.

versus

COMMISSIONER OF TRADE & TAXES ..... Respondent

Through: Mr. Satyakam, ASC, Govt. of NCT of Delhi with Mr. Rakesh, VATO Ward 76.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

<u>O R D E R</u>

% **03.07.2018**

This writ petition seeks a direction to the respondent VAT authorities to refund an amount of ₹8,44,791/-. After notice was issued, the respondents claimed that the petitioner did not appeal against the order of 14.08.2012, where a claim for refund had been rejected. The petitioner had disputed this contention urging that the order of 14.08.2012 related to the second quarter of 2010. This was noticed by the Court on 18.04.2018 when it was observed as follows:

> *"Counsel for the petitioner has drawn our attention to Annexure P-2 dated 27th August, 2013, which is an order of default assessment passed for four quarters of 2010-11. He submits that the order relied upon by the respondent dated 14th August, 2012 is earlier in point of time and relates to the second quarter of 2010. The said order 14th August, 2012 will no longer be valid and effective in view of the order dated 27th August, 2013 enclosed as Annexure P-2.*
>
> *Counsel for the respondent prays for some time to obtain instructions.*

Relist on 4th May, 2018.

Counsel for the petitioner would also obtain instructions as the order dated 27th August, 2013 states that the petitioner was liable to pay Rs.4,724/- for the four quarters of 2010-11. For the second quarter, the turnover was assessed at zero but no refund was payable."

Later on 04.05.2018, this Court recorded the respondent's submission, and stated as follows:

"Learned counsel for the respondent states that he has obtained instructions. The two orders pertain to local sales and central sales tax. Thus, there is no contradiction as such. Counsel for the petitioner states that he would like to obtain instructions.

Re-list on 3rd July, 2018."

It is therefore evident that the petitioner is at liberty to contest the order of 14.08.2012 to the extent it declines refund under Section 32.

Having regard to these peculiar circumstances, the Court is of the opinion that the petitioner is at liberty to avail the appellate proceedings and approach the Objection Hearing Authorities within 4 weeks from today. In such an event, the appeal shall be considered on merits and not rejected on the ground of limitation.

The writ petition is disposed of.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 03, 2018/kks