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

\+ W.P.(C) 6212/2018

SUBASH CHANDER ..... Petitioner

Through: Counsel (appearance not given)

versus

THE COMMISSIONER TRADE & TAXES & ANR...... Respondents

Through: Mr. Satyakam, Additional Standing Counsel with Ms. Rajni, L.A., Mr. Telu Ram Singh, VATO DTT, GNCTD

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

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

% **30.07.2018**

The petitioner seeks a direction for refund of Rs.6.66 lacs as excess DVAT amount lying to its credit with the respondents-DVAT Department. After notice was issued, the respondents have submitted that the petitioner would be entitled to refund of Rs.2,82,861/- and that the balance amount (Rs.3,93,961/-) would be adjusted towards the DVAT amounts due. It is pointed out that the petitioner had in its returns, claimed that he was trading in tobacco and tobacco products (gutka, bidies etc.) for which the rate of duty is 20% and for which no ITC could be claimed. The copies of returns reflecting for these several periods are part of record as Annexure R-4.

In view of these facts, the Court is of the opinion that the amounts which the petitioner is entitled according to the respondent's affidavit should be credited to petitioner's account within two weeks. With respect to the balance since the respondent has now made its order on 26.07.2018 (Annexure R-3), the petitioner is at liberty to pursue his available remedy before the objection authority (OHA) in accordance with law. All the rights and contentions of the parties are reserved.

The writ petition is partly allowed in the above terms.

**S. RAVINDRA BHAT, J**

**A. K. CHAWLA, J**

**JULY 30, 2018**
**ns**