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

+ CO.PET. 154/2002

IN THE MATTER OF SUNSTAR

LUBIRCANTS LTD.

..... Petitioner

Through Mr.Rishi Manchanda, Standing
Counsel for the OL.

Mr.Sumeet, Adv. for the applicant.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **15.03.2019**

CA No.1782/2017

This application is filed by applicant Sh.Ashok Bahadur, Joint Managing Director of the petitioner company, namely, M/s Sunstar Lubricants Ltd. seeking a direction that no further payment is liable to be made by the applicant company to the Sales Tax Department, Chennai, Tamilnadu and that the Sales Tax Department is entitled to only Rs.10,97,847/- which has been paid twice by the applicant company as well as by the OL by mistake to the Sales Tax Department.

It is the case of the applicant that the company was under liquidation as per the order of this court dated 03.12.2003. Finally, the winding up order was recalled vide order dated 08.04.2010 in view of the scheme of revival. By order dated 25.02.2008 the properties of the company possessed by the OL were auctioned for a total consideration of Rs.22.66 crores. The claims were received by the OL from the various creditors. Payments were made to the secured creditors of the company in terms of the settlement arrived at by the company with its secured creditors. Tamilnadu Sales Tax Department filed its claim before the OL vide its letter dated 13.10.2008 but the claim

was not in the prescribed format. This court vide order dated 24.09.2010 quantified the claim of the Tamilnadu Sales Tax Department, Chennai at Rs.10,97,847/-. A direction was issued by the court to the OL to pay off the dues of the Tamilnadu Sales Tax Department, Chennai forthwith.

In the meantime, the OL has paid to the Tamilnadu Sales Tax Department, Chennai a sum of Rs.10,97,847/-. The applicant company, namely, M/s Sunstar Lubricants Ltd. has also made payment of Rs.10,97,847/- on 01.10.2016 to the Tamilnadu Sales Tax Department, Chennai. Hence, the dues were paid by mistake twice to the department. In view of the above, notice was issued to the Tamilnadu Sales Tax Department to appear. Despite service, they have refused to appear before the court.

Keeping in view the averments in the application are un-rebutted, it is apparent that Tamilnadu Sales Tax Department, Chennai has been paid the said sum of Rs.10,97,847/- twice by mistake i.e. by the OL and as well the by the applicant company, namely, M/s Sunstar Lubricants Ltd.

In view of the above, let Tamilnadu Sales Tax Department, Chennai refund a sum of Rs.10,97,847/- to the applicant company, namely, M/s Sunstar Lubricants Ltd. alongwith applicable interest if any within six weeks from today.

The application stands disposed of as above.

JAYANT NATH, J.

MARCH 15, 2019/v