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

\+ W.P.(C) 3831/2018

SUNDER LAL GOVIND RAM SANITARYWARES PVT LTD.

..... Petitioner

Through: Mr. Nitin Gulati, Adv.

versus

COMMISSIONER, TRADE & TAXES & ANR.

..... Respondent

Through: Mr. Shadan Farasat, ASC with Ms. Rudrakshi, Advs.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **16.09.2019**

The original relief sought in the writ petition was to seek a direction to the respondents to refund an amount of Rs. 4,14,463/- along with interest thereon which the petitioner claimed is due in law.

During the pendency of the writ petition, the respondents passed two orders on 26.04.2018 and one order on 04.05.2018. These orders have been passed by the Assessing Officer/ Value Added Tax Officer (VATO) (WARD-50). The petitioner has, consequently, amended the writ petition to assail the authority of the Assessing Officer/ Value Added Tax Officer (VATO) (WARD-50) to pass the said orders on the ground that there was no delegation of the power to pass the said orders in their favour.

Learned counsel for the respondent does not dispute the aforesaid position. That being the position, the two orders dated 26.04.2018 and the order dated 04.05.2018, passed by the VATO, (WARD-50) are quashed. As a result of the aforesaid, the respondents are bound to refund to the petitioner the amount of Rs. 3,81,187/- since for the period i.e. fourth quarter of 2012-13 no re-assessment is possible at this stage as the limitation has expired on 31.03.2019.

The respondents are directed to release the refund amount within the next four weeks. So far as the period i.e. fourth quarter of 2013-14 is concerned, learned counsel for the respondent points out that there is still time available for the competent authority to pass an assessment order after grant of permission by the Commissioner concerned for the extended period of limitation.

Learned counsel for the petitioner states that, in the present case, there is no justification for extension of limitation for passing the order. We are not concerned with that aspect of the matter and, in case, an order adverse to the petitioner's interest is passed, it shall be open to the petitioner to raise all its pleas before the appropriate forum.

However, the respondents should pass the fresh order, if any, pertaining to the fourth quarter of 2013-14 in accordance with law within eight weeks from today, failing which the petitioner would be entitled to refund of the amount of Rs. 82,227/- relating to the fourth quarter of 2013-14 as well.

The petition stands disposed of in the aforesaid terms.

Dasti.

VIPIN SANGHI, J

SANJEEV NARULA, J

SEPTEMBER 16, 2019
N.Khanna