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

+ W.P.(C) 3214/2018

M/S KANDOI METAL POWDER MFG. CO. PVT.
LTD.

..... Petitioner

Through: Mr Mrinal Bharat Tram and Mr
Manish Panda, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Anurag Ahluwalia, CGSC with
Ms Tejaswita Sachdeva, Advocate for
UOI with Mr R. K. Meena, DGFT.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
09.01.2019

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1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 19.12.2013, whereby the petitioner's application for refund of Terminal Excise Duty (TED) was rejected. The petitioner has also made a consequential prayer seeking refund of the TED of a sum of ₹1,13,66,991/- relating to the period July, 2012 to December, 2012. The learned counsel appearing for the petitioner states that the controversy involved in this petition is squarely covered by the decision of the Division Bench of this court in *M/s Kandoi Metal Powders Mfg. Co. Pvt. Ltd. v. Union of India & Ors.: 2014 (302) ELT 209 (Del)*. He states that the aforesaid decision was rendered in a writ petition filed by the petitioner in the context of similar facts, but, in respect of refund of TED due in respect of the period January, 2012 to June, 2012.

2. Mr Ahluwalia, learned counsel appearing for the respondents does not controvert the aforesaid contention. He, however, states that the decision of the Division Bench in *M/s Kandoi Metal Powders Mfg. Co. Pvt. Ltd.* (*supra*) was also relied upon by this Court in *M/s Deepak Enterprises v. Union of India & Ors.: W.P.(C) 5935/2017*, decided on 19.01.2018. He states that the respondents had preferred an appeal against the aforesaid decision (being LPA 616/2018 captioned '*Union of India and Ors. v. M/s Deepak Enterprises*') and the Division Bench has, by an order dated 30.10.2018, issued notice and further passed an *ad interim* order staying the refund to be made to the respondent therein. He submits that since the issues involved are now being considered by the Division Bench, the present matter be deferred.

3. The aforesaid contention is not persuasive as it is not disputed that the petitioner's case is covered by the decision of the Division Bench in *Kandoi Metal Powders Mfg. Co. Pvt. Ltd.* (*supra*). Undisputedly, the said decision is binding on this court.

4. The petition is, accordingly, allowed and the impugned order is set aside. The respondents are directed to process the petitioner's application for refund in accordance with the 2009 policy, within a period of three months from today. The parties are left to bear their own costs.

VIBHU BAKHRU, J

JANUARY 09, 2019
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