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

\+ **W.P.(C) 7541/2018**

POPULAR ENTERPRISES ..... Petitioner

Through: Mr.Rajesh Mahna & Mr.Ramanand Roy, Advocates

versus

COMMISSIONER OF TRADE & TAXES, DELHI & ANR. ..... Respondent

Through: Mr.Anuj Aggarwal, ASC-GNCTD

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **06.08.2019**

1. The short question involved in the present petition is about the refund of the pre-deposit made by the Petitioner for his appeal to be considered by the first Appellate Authority under the Delhi Sales Tax Act, 1975 ('Act'). While the Petitioner has received the refund of the pre-deposit amount, the issue that still remains is whether it is entitled to interest on the said amount.

2. What is not in dispute is that the petitioner made pre-deposit as a condition for its appeal under Section 43(5) being entertained. The pre-deposit was made on two dates, i.e. Rs. 12,50,000/- on 31st March, 2003 and Rs. 6,00,000 on 20th May, 2003.

3. The appeal was allowed on 25th October, 2013. The Respondent Department, however, sanctioned the refund amount only on 8th January, 2019 and deposited the amount in the account of the petitioner only on 28th January, 2019.

4. Sections 30 (3) and 30 (4) of the Act read as under:

> "(3) No claim for refund under sub-section (1) shall be allowed unless it is made within a period of twelve months from the date of the order giving rise to a claim for such refund, and the Commissioner shall, except as otherwise provided in this Act, refund any amount which becomes due to a dealer in the prescribed manner:
> Provided that the Commissioner may allow a claim for refund to be made after the expiry of the said period but not later than twelve months from such expiry, if he is satisfied that there was sufficient cause for not making such claim within that period.
>
> (4) Where an amount required to be refunded by the Commissioner to any person as a result of any order passed in appeal or other proceedings under this Act is not so refunded to him within ninety days from the date of his claim under sub-section (3), such person shall be entitled to be paid simple interest on such amount at one per cent. per month from the date immediately following the expiry of the period of ninety days for a period of one month and at one and a half per cent. per month, thereafter for so long as the refund is not made."

5. Mr. Mahna informs the Court that the refund claim was made by the Petitioner on 27th December, 2013 after accounting for a period of 90 days thereafter, interest would become payable in terms of Section 31 (4) of the Act up to date of actual refund to the petitioner i.e. 28th January, 2019.

6. It is accordingly directed that the said interest amount in terms of 30(4) of the Act will be calculated and paid by the Respondent to the Petitioner not later than 30th September, 2019 with the interest being calculated till the date of payment. If the above time limits are not adhered to, the Respondents

shall additionally pay the Petitioner Rs. 50,000/- as costs.

7. The petition is disposed of in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 06, 2019
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