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

\+ W.P. (C) 5380/2020

M/S SPACE OPTICAL COMPANY ..... Petitioner

Through: Mr.Varun Nischal with Mr. Arif Ahmed Khan, Advocates.

versus

COMMISSIONER OF TRADE TAXES & ORS. ...... Respondents

Through: Mr.Satyakam, ASC for NCT of Delhi.

% Date of Decision: 31st August, 2020

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>J U D G M E N T</u>

<u>MANMOHAN, J</u>: (Oral)

<u>C.M.Nos.19386-19387/2020</u>

Exemption allowed, subject to all just exception.

Accordingly, the applications stand disposed of.

<u>W.P. (C) 5380/2020 & C.M.No.19385/2020</u>

1. The petition has been heard by way of video conferencing.

2. Present petition has been filed challenging the order dated 25th June, 2020 passed by the Objection Hearing Authority (for short 'OHA') whereby petitioner's claim for input tax credit (for short 'ITC') has been disallowed under Section 9(2)(g) of the Delhi Value Added Tax Act, 2004 (for short

'DVAT Act'). The petitioner also challenges the default notices of assessment of tax, interest and penalty dated 28th March, 2016 and 13th April, 2016 issued under DVAT Act for the tax periods 1st and 2nd quarters 2015-2016.

3. In the present case, it has been averred that twelve other objections pending before the special OHA for other tax periods arising out of the same cause of action, on similar facts and issue have been allowed in favour of the petitioner vide orders dated 13th July, 2020 setting aside the default assessment notices.

4. As there were two sets of contrary orders arising from the same set of facts, learned counsel for the respondents had on the last date of hearing sought time to obtain instructions.

5. Today Mr.Satyakam, learned ASC for Govt. of NCT of Delhi, on instructions, states that the matter has been discussed with the Zonal In-charge and considering the facts and circumstances as well as the legal position, he wishes to withdraw the impugned order passed by the OHA, with liberty to pass a fresh order in accordance with law after hearing the petitioner in a time bound manner.

6. Learned counsel for the petitioner states that the present assessment is barred by limitation.

7. Keeping in view the aforesaid, the impugned order dated 25th June, 2020 passed by the OHA is set aside and the matter is remanded back to the OHA. The OHA is directed to decide the matter within twelve weeks. All the rights and contentions of the parties are left open.

8. Accordingly, the present petition along with pending application stand disposed of.

9. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

AUGUST 31, 2020
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