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

Date of Decision: 20th October, 2020

\+ W.P.(C) 8242/2020& CM APPL. 26713/2020

POLYPLEX INDUSTRIES ..... Petitioner
Through: Mr. Ajay Kumar, Adv.

versus

COMMISSIONER TRADE AND TAXES ..... Respondent
Through: Mr. Prateek Chadha, Advocate for GNCTD

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

D.N. PATEL, Chief Justice *(Oral)*

The proceedings in the matter have been conducted through video conferencing.

1. This writ petition has been preferred for the following prayers:-

"A. To pass a order judgment/order and direct the respondent to pay to the petitioner Rs. 314,284/- (three lacs fourteen thousand two eighty four) along with interest as applicable till the realization of amount, which is refund is due as per the provisions of the section 38 of DVAT act, 2005 by virtue of input credit on the purchase being made more than output liability.

OR IN THE ALTERNATIVE

B. To pass a order judgment/order and direct the respondent to allow, amount Rs. 3,14,284/- (three lacs fourteen thousand two eighty four), to be carried forward by way of TRANS-1 return.

C. Pass such order as this Hon'ble Court may deem fit in the facts and circumstances of the case."

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that this petitioner has preferred the writ petition for directions to the respondent to pay Rs.3,14,284/- for the input tax credit alongwith interest under Section 38 of Delhi Value Added Tax Act, 2004. There is also alternative prayer for allowing the aforesaid amount i.e. Rs.3,14,284/- to be carried forward by way of TRAN-1 Return.

3. It is also submitted by learned counsel for the petitioner that this writ petitioner is similarly situated to the petitioner in another writ petition i.e. W.P.(C) 7411/2020, which has been decided vide judgment and order dated 05.10.2020. Accordingly, the aforesaid amount of the input tax credit may be paid to this petitioner by the respondents. It is further submitted that an application has already been made in this regard but the respondents are not deciding the same.

4. In view of the aforesaid submissions and having heard learned counsel for both the sides, we hereby direct the concerned respondents-authorities to decide the application of this petitioner for refund of input tax credit for Rs.3,14,284/- in accordance with law, rules, regulations and government policies applicable to the facts of the case. The respondent authorities will also keep in mind the decision rendered in

W.P.(C)7411/2020 vide judgment dated 05.10.2020, if applicable, and will also keep in mind the alternative prayers in this writ petition. It is made clear that we have not adjudicated the merits of the claim raised by the petitioner herein.

5. The decision will be taken by the respondents as expeditiously as possible and practicable preferably within a period of four weeks from the date of receipt of the copy of the order of this Court.

6. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

OCTOBER 20, 2020
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