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

Date of Decision: 6th November, 2020

\+ W.P.(C) 8726/2020 & CM APPL. 28107/2020

M/S JIWAND SINGH AND SONS ..... Petitioner

Through: Mr.Rajesh Mahna, Mr. Ramanand Roy, Ms.Sonia Sharma, Mr.Sohan Lal Sharma & Mr.Mayank Kouts Advocates

versus

COMMISSIONER TRADE AND TAXES & ANR. ..... Respondents

Through: Mr.Dhananjaya Mishra, Advocate

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.

CM APPL. 28107/2020 *(exemption)*

Allowed, subject to just exceptions.

The application stands disposed of.

W.P.(C) 8726/2020

1. This petition has been preferred with the following prayers:

"i) issue a writ of mandamus or any other writ, order or

direction of like nature directing the Respondents to refund amount of Rs.10,00,000/- (Rupees Ten Lakh) due to the Petitioner along with interest thereon from date of its deposit as conditions.

ii) pass such further and other orders, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

2. Having heard learned counsel for both the sides and looking into the facts and circumstances of the case, it appears that this petitioner is in search of refund of an amount of ₹10,00,000/- (Rupees ten lakhs only), which was deposited as pre-deposit during the hearing of appeal, along with interest.

3. The proceedings have been initiated against this petitioner under the Delhi Sales Tax Act, 1975. Initially, the assessment was made on 31st August, 1999 (Annexure P-1 to the memo of this writ petition).

4. Being aggrieved and dissatisfied with the assessment order, an appeal was preferred by this appellant before the Appellate Authority. The appeal was allowed and the matter was remanded in the year 2011 (Annexure P-3 to the memo of this writ petition). During the appellate proceedings, amount of ₹10,00,000/- (Rupees ten lakhs only) was deposited by the petitioner by way of pre-deposit, as submitted by the learned counsel for the petitioner. In pursuance of the aforesaid order of remand, a fresh assessment order dated 2nd April, 2012 was passed (Annexure P-4 to the memo of this writ petition). As per this fresh order of assessment on remand, the liability of the petitioner comes to 'Nil' and hence, it has been observed in the order that ₹10,00,000/- (Rupees ten lakhs only) ought to be refunded to the petitioner upon proper application.

5. It further appears from the facts of the case that this petitioner preferred the refund application which is at Annexure P-5 to the memo of this writ petition. Thereafter, representations was also made before the Commissioner of State, GST, for refund (Annexure P-6). These refund applications have not been scrutinized and decided by the respondent, and therefore it is submitted by learned counsel for the petitioner that suitable directions be given to concerned respondent-authority to decide the refund application in accordance with law, rules and regulations within a time bound schedule, and make the required payment along with statutory interest.

6. Having heard learned counsel for both the sides and looking into the facts and circumstances of the case, we hereby direct respondent no. 2 to decide the application for refund of the amount along with statutory interest, which is at Annexure P-5 to the memo of this writ petition, in accordance with law, rules, regulations and Government policies applicable to the facts of the case and on the basis of the evidences on record, as expeditiously as possible and practicable, preferably within a period of four weeks from today.

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

CHIEF JUSTICE

PRATEEK JALAN, J

NOVEMBER 6, 2020
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