$~Suppl.-1

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

\+ W.P. (C) 8893/2020 & CM APPLs.28648-28649/2020

AMOROUS COMMUNICATIONS ..... Petitioner

Through: Mr. Rajesh Mahna, Advocate with Mr. Ramanand Roy & D.K. Sharma, Advocates

versus

COMMISSIONER OF GOODS AND SERVICES TAX & ANR. ...... Respondents

Through: Mr. Satyakam, Advocate, ASC for GNCTD.

% Date of Decision: 19th November, 2020

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

JUDGMENT

MANMOHAN, J (Oral):

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

2. Present writ has been filed challenging the writ of demand dated 29th September, 2020 issued under Section 137 of the Delhi Land Reform Act, 1954 and consequential order.

3. Petitioner also prays for quashing of the impugned notice of default assessment of tax and interest under Section 32 of the Delhi Value Added Tax Act, 2004 (hereinafter referred to as 'DVAT Act') and the impugned notice of default assessment of penalty under Section 33 of the DVAT Act for the assessment years 2012-13, 2014-15, 2015-16 and 2016-17.

4. Learned counsel for the petitioner states that perusal of the impugned notice shows that the impugned demand has been created merely on the ground that respondent No. 2 has doubted the claims of selling dealers from whom the petitioner had made purchases whereas the petitioner had made purchases from the registered dealers in accordance with the provisions of the DVAT Act on the basis of "tax invoices". In support of his submission, he relies upon the judgment of this Court in ***On Quest Merchandising India Vs. Government of NCT, Delhi, W.P.(C) No. 6093/2017.***

5. On the last date of hearing, we had asked the petitioner as to why the petitioner had not challenged the assessment orders and notices of default on the basis of which the impugned Writ of demand had been passed. Learned counsel for the petitioner had stated that assessment orders were unsigned and had been passed without any notice to the petitioner.

6. Consequently, on the last date of hearing, this Court had asked the learned counsel for respondent as to whether the assessment orders had been uploaded on the DVAT portal in Dealer login and if uploaded to provide the date of uploading of orders on the DVAT portal. Learned counsel for respondent has now filed the following chart:-

Assessment order no	*date of order*	*Tax period*	*Assessment Year*	*Total Amount Due Tax and Interest*
150011166413	*15.05.2014*	*First Quarter-2012*	*2012-2013*	*62029.43*
150011241663	*15.05.2014*	*Second Quarter-2012*	*2012-2013*	*82491.67*
150082912552	*13.03.2019*	*Second Quarter-2014*	*2014-2015*	*9134.82*

150082912563	*13.03.2019*	*Third Quarter-2014*	*2014-2015*	*5094.35*
150082706695	*30.11.2018*	*First Quarter-2014*	*2014-2015*	*8415.82*
150083259798	*14.03.2020*	*First Quarter-2015*	*2015-2016*	*47705.45*
150083259828	*14.03.2020*	*Second Quarter-2015*	*2015-2016*	*21986.11*
150083259873	*14.03.2020*	*Third Quarter-2015*	*2015-2016*	*8673.72*
150083259914	*14.03.2020*	*Fourth Quarter-2015*	*2015-2016*	*28103.58*
150082730774	*27.12.2018*	*Second Quarter-2015*	*2015-2016*	*776.00*
150083118342	*13.08.2019*	*Fourth Quarter-2015*	*2015-2016*	*71376.68*
150083127974	*04.09.2019*	*Second Quarter-2016*	*2016-2017*	*67630.79*
250012062836	*07.06.2014*	*First Quarter-2012*	*2012-2013*	*49500.06*
250012101289	*07.06.2014*	*Second Quarter-2012*	*2012-2013*	*67876.3*

7. Learned counsel for respondent states that as per the database, all the demands and penalties mentioned are available on the dealer login and also available on ward incharge login and the uploading date be taken as order generated date. He clarifies that the order date mentioned in the table are the assessment order date and the same are reflected in the dealer login and ward login.

8. Since the demands and penalties are the basis on which the impugned writ of demand dated 29th September, 2020 has been issued, this Court is of the view that petitioner must challenge the demands and penalties in

accordance with the statutory mechanism.

9. At this stage, Mr. Rajesh Mahna, learned counsel for the petitioner states that petitioner shall withdraw the present writ petition and challenge the demands and penalties in accordance with the DVAT Act. The statement made by Mr. Rajesh Mahna is accepted by this Court and the petitioner is held bound by the same. To facilitate the filing of the said proceedings, the writ of demand dated 29th September, 2020 is stayed for a period of six weeks. All the rights and contentions of the parties are left open. With the aforesaid directions, present writ petition and pending applications stand disposed of.

10. 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

NOVEMBER 17, 2020
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