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

% *Date of Decision: 22th September, 2021*

\+ W.P.(C) 10556/2021

KESRI STEELS LIMITED ..... Petitioner

Through: Mr. Arif Ahmed Khan, Advocate

versus

COMMISSIONER OF DELHI GOODS AND SERVICES TAX & ORS. ..... Respondents

Through Mr. Naushad Ahmed Khan, ASC for GNCTD

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

D.N. PATEL, CHIEF JUSTICE(ORAL)

CM APPL. 32544/2021 (Exemption)

Allowed, subject to only just exceptions.

Application is disposed of.

W.P.(C) 10556/2021

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

"(a) Set aside the impugned zero demand order dated 27.12.2011;

(b) Issue a Writ of mandamus or any other Writ, Order or directions directing the respondents to issue the refund of Rs.2,75,136/-, Rs.13,02,811/-, Rs.71,384/- & Rs.1,17,646/-in respect of the tax periods 4th Quarter 2008-09, Annual 2009-10, 4th Quarter 2010-11 & 1st Quarter 2011-12 respectively as

Petitioner is legally entitled for the same as per the provision of law;

(c) Grant interest @ 6% as per Section 42 of DVAT Act on Refund claimed amount from the expiry of 2 months from the filing of returns as petitioner has been unjustifiably denied the refund as the Respondent acted in complete violation of statutory provision and the Circulars issued by Respondent No.1. The petitioner has right to claim interest under section 42 of the DVAT Act and the claim is not affected by the operation of section 38(7)(d) came wef. 18.06.2012; and

(d) Grant any other relief as deemed fit in the circumstances of the case."

2. Having heard learned counsel for the Petitioner and looking to the facts and circumstances of the case, it appears that this Petitioner is claiming a refund of Rs. Rs.2,75,136/-, Rs.13,02,811/-, Rs.71,384/- & Rs.1,17,646/-in respect of the tax periods - 4th Quarter of 2008-2009, for all the quarters of 2009-2010, 4th Quarter of 2010-2011 & for 1st Quarter of 2011-2012 respectively, under the Delhi Value Added Tax Act, along with interest as per Section 42 of the Delhi Value Added Tax Act.

3. We hereby direct the concerned Respondent Authority to decide the claim, as and when the same is preferred by the Petitioner, for refund as stated in the memo of this petition, in accordance with law, rules, regulations, Government policies applicable to the facts and circumstances of this case and on the basis of the evidence on record and also keeping in mind the **law of limitation for getting the refund** and also keeping in mind the principles of "**unjust enrichment"** as propounded by nine-Judges Bench of the Hon'ble Supreme Court in the case of ***Mafatlal Industries Ltd. &***

Ors. vs. Union of India & Ors. (1997) 5 SCC 536. The decision shall be taken by the concerned Respondent Authorities as stated hereinabove as expeditiously as possible and practicable.

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

CHIEF JUSTICE

AMIT BANSAL, J

SEPTEMBER 22, 2021/rd