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

% *Decision delivered on: 02.11.2022*

+ **W.P.(C) 8408/2021**

M/S VODAFONE IDEA LIMITED ......Petitioner

Through: Mr Bharat Raichandani and Mr Deepak Kumar Khokhar, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ORS. ......Respondents

Through: Mr Sameer Vashisht, ASC with Ms Sanjana Nangia, Adv. for GNCTD.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MS. JUSTICE TARA VITASTA GANJU
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. The principal grievance of the petitioner as articulated in the writ petition is, that the petitioner is not being permitted to revise its VAT/CST returns concerning Financial Years 2016-2017 and 2017-2018.

2. It is the petitioner's grievance, that if such a revision is permitted, it would enable the petitioner to obtain rectified C-Forms and, thus, avail of the benefit of concessional rate of tax.

3. Concededly, this issue has been considered by various benches of this Court, in a number of matters.

3.1 One such judgment of a coordinate bench is the judgment dated 15.02.2019 passed in W.P.(C)No.4092/2017, titled ***Samsung C&T Pvt. Ltd. v. Commissioner, Trade & Taxes & Anr***. Since the judgment is brief, the same is extracted hereafter:

> *"1. After some hearing, counsel for the parties states that they would be satisfied if an order in terms of order dated 10th September, 2018 in W.P. (C) No. 9474/2018,* ***Allied Automation Engineering Services Private Limited versus Commissioner of Trade and Taxes*** *is passed in the present case.*
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> *2. The order in* ***Allied Automation Engineering Services Private Limited (supra)*** *notices that the decision of this Court in* ***Ingram Micro India Private Limited versus Commissioner Department of Trade and Taxes****, (2016) 89 VST 312 (Del) is subject matter of Civil Appeal pending before the Supreme Court, but there is no stay order. However, stay has been granted in appeals preferred by the Revenue in other cases including judgement in W.P.(C) No. 2633/2017* ***India Oil Corporation Limited Vs. Commissioner, Vat, Delhi &Ors.*** *decided on 11th April, 2017. Recording the said fact, the writ petition preferred by* ***Allied Automation Engineering Services Private Limited (supra)*** *was disposed of on the following terms:-*
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>> *"Issue notice. Mr. Satyakam, Addl. Standing Counsel for GNCTD accepts notice on behalf of the respondent. The petitioner's grievance in these proceedings is that it had, for the relevant inter-state purchase of goods in the third and fourth quarters of financial year 2014-15, while transacting with twenty dealers inadvertently reflected an amount of Rs.42,51,522/- incorrectly in the column No.11.1 of the DVAT-16. It is stated that this purchase is against column E-1 and thus the amounts (Rs.2,49,81,909/-) were to be shown as purchases made against the C-forms and appropriately required to be reflected in column No.11.1 in DVAT-16.*
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>> *The petitioner relied upon the judgment of this Court in Indian Oil Corporation vs. Commissioner, VAT' dated 11.04.2017, W.P. (C) 2633/2017 as well as subsequent decisions stating that the relief of a direction to the DVAT Authorities to issue fresh C-forms to enable the dealer to correct the mistake, can be made.*

> *The Revenue, which is represented on advance notice points out that similar cases are pending on the file of the Court and that the decision in Indian Oil Corporation (supra) was stayed upon a Special Leave Petition by the Revenue (SLP No.13928/2017 - Commissioner, VAT Delhi &Ors vs. M/sIndian Oil Corporation Ltd.) by an order dated 01.05.2017.*
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> *In the light of the submissions made following the final judgment of this Court of 11.04.2017 in W.P. (C) 2633/2017 (Indian Oil Corporation Ltd. vs. Commissioner, VAT Delhi), the petitioners are entitled to a direction of similar kind. The respondent shall release the C-Forms to enable the appropriate correction to be made for the relevant quarters. However, these directions shall remain suspended till the time SLP (C) 13928/2018 is pending and shall be subject to the final decision of the Supreme Court in that case.*
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> *The writ petition is disposed of in the above terms. A copy of the order be given Dasti."*

> *3. In view of the consent given by the counsel for the parties, on instructions, we dispose of the present writ petition directing that the petitioner would be issued segregated and separate C-forms in terms of the prayer Clause-A to the writ petition (subject to verification of entitlement or merits and not on the ground of limitation). However, this direction would remain suspended till Civil Appeals pending in the Supreme Court are decided. Compliance would be made in accordance with the ratio of the said decision.*
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> *4. Recording the aforesaid terms, the writ petition is disposed of and the pending applications are also disposed of."*

4. Accordingly, this writ petition is disposed of, with the consent of the learned counsel for the parties, with a direction to the respondents/revenue

to issue the rectified C-Forms, subject to the verification of entitlement on merits, without being burdened with the issue concerning limitation.

5. As has been the direction issued in other cases, including ***Samsung C&T Pvt. Ltd.***, this direction will remain suspended till the civil appeals pending in the Supreme Court, as noticed in the matter of ***Samsung C&T Pvt. Ltd.***, are adjudicated.

6. Compliance will be made, in accordance with the decision of the Supreme Court in the pending civil appeals.

7. The writ petition is disposed of in the aforesaid terms.

8. Parties will act based on the digitally signed copy of the order passed today.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

NOVEMBER 2, 2022
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Click here to check corrigendum, if any