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

% *Date of Decision:11.10.2022*

\+ **W.P.(C) 14366/2022**

M/S INDUS DISTRIBUTIONS LLP ..... Petitioner

Through: Mr Puneet Agarwal with Mr Yuvraj Singh and Mr Chetan Kumar Shukla, Advs.

versus

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

Through: Mr Rajeev Aggarwal with Ms Shilpa Singh and Ms Divyanshi Bansal, Advs.

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):

CM Appl.43862/2022

1. Allowed, subject to the petitioner filing legible copies of dim documents, at least three days before the next date of hearing.

W.P.(C) 14366/2022 & CM Appl.43861/2022 ***[Application filed on behalf of the petitioner for interim relief]***

2. Issue notice.

2.1. Mr Rajeev Aggarwal accepts notice on behalf of the respondents.

3. With the consent of the parties, the writ petition is taken up for final hearing and disposal, at this stage itself.

4. The substantive prayers made in the petition are as follows:

> *"i. Issue any writ, order or direction to the Respondents to allow the Petitioner to revise the returns for the 2nd, 3rd and 4th of Assessment Year 2018-19; and/or*
> *ii. Issue any writ, order or direction to the Respondents to allow the Petitioner to revise the returns for the 2nd, 3rd and 4th of Assessment Year 2019-20; and/or*
> *iii. Issue any writ, order or direction to the Respondents to issue the appropriate C Forms for the Financial Year 2018-19 and 2019-20; and/or*
> *iv. Issue any writ, order or direction to the Respondents to issue the appropriate F Forms For the Financial Year 2018-19 and 2019-20; and/or*
> *v. Issue any writ, order or direction to the Respondents to correct the functioning of the DVAT Portal so that the Petitioner can rectify the mistake in the returns filed for the Financial Year 2018-10 and 2019-20; and/or*
> *vi. Issue any writ, order or direction to the Respondents to accept and take on record the rectified manual returns for the period of 2nd, 3rd and 4th Quarter of Financial Year 2018-19; and/or*
> *vii. Issue any writ, order or direction to the Respondents to accept and take on record the rectified manual returns for the period of 2nd, 3rd and 4th Quarter of Financial Year 2019-20; and/or*
> *viii. Issue any writ, order or direction to the Respondents to issued appropriate C and/or F Forms manually for the period under consideration; and/or*
> *ix. Issue any other writ, order or direction in favour of the Petitioner, as this Hon'ble Court may deem fit and proper in the present facts and circumstances of the case, so as to ensure the ends of justice, or else the Petitioner shall suffer irreparably; and/or*
> *x. to grant costs of this Petition; and/or…"*

5. Mr Puneet Agrawal, who appears on behalf of the petitioner, says that he does not wish to press the prayer made for costs, i.e., prayer clause (x).

5.1. The statement of Mr Agrawal is taken on record.

6. Insofar as the remaining substantive prayers are concerned, it is not disputed that the issues raised in the instant matter are similar to those raised in certain other matters, in which directions have been issued by various Benches of this Court.

7. The directions issued by a coordinate Bench, which included one of us [Rajiv Shakdher, J.] in W.P.(C) No.11470/2019, titled ***M/s R. B. Santani v. Commissioner of Delhi Value Added Tax and Anr.*** on 06.04.2022 read as follows:

> *"2. Counsel for the parties inform us that the issue raised in the writ petition is covered by various judgments of this court, including the order dated 10.09.2018, passed in W.P.(C.)No. 9474/2018, titled **Allied Automation Engineering Services Pvt. Ltd. v. Commissioner of Trade & Taxes**.*
> *2.1 The above-referenced order has been passed by the Division Bench headed by Hon'ble Mr Justice S. Ravindra Bhat [as he then was]. The following operative directions were issued via order dated 10.09.2018:*
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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.*
> > *The writ petition is disposed of in the above terms."*

> *3. In view of the order passed in **Allied Automation Engineering Services Pvt. Ltd.,** the respondents are directed to release "F" Forms to enable appropriate corrections to be made for the concerned period.*
> *3.1. It is made clear that this direction will remain suspended, till a decision is rendered in SLP(C.) No.13928/2018, and will be subject to the final decision of the Supreme Court in that case…"*

8. Somewhat similar directions have been issued by another Division Bench comprising Hon'ble Mr Justice S. Ravindra Bhat [as he then was] and Hon'ble Mr Justice A.K. Chawla [as he then was], in W.P.(C) No. 9474/2018, titled ***Allied Automation Engineering Services Pvt. Ltd. v. Commissioner of Trade & Taxes*****.**

8.1. The directions contained in the ***M/s R. B. Santani*** case are based on, as would be evident, those contained in ***Allied Automation Engineering Services Pvt. Ltd***.

9. Besides the aforesaid, yet another Division Bench of this Court, *via* judgment dated 04.12.2018, in W.P.(C) No. 8435/2018 titled ***Ingram Micro India Ltd. v. Commissioner, Department Of Trade & Taxes & Anr.,*** has issued similar directions, based on the order passed in ***Allied Automation Engineering Services Pvt. Ltd***.

9.1. Furthermore, the directions passed in ***Allied Automation Engineering Services Pvt. Ltd***. have also been followed by another Division Bench *via* judgment dated 15.02.2019 passed in W.P.(C) No. 4092/2017, titled ***M/s Samsung C&T Pvt. Ltd. v. the Commissioner, Trade & Taxes, & Anr.***

10. The instant writ petition is disposed of, with a direction to revise returns for the periods mentioned in the relevant prayer clauses incorporated

in the writ petition, which have been culled out hereinabove.

11. Furthermore, the respondents will also issue C-Forms and/or F-Forms to the petitioner, subject to verification of entitlement on merits and not on the ground of limitation, as has been indicated in paragraph 3 of the judgment dated 15.02.2019, passed in ***M/s Samsung C&T Pvt. Ltd***. [which concerns C-Forms] and the judgment dated 13.09.2018 in W.P.(C) 4952/2017, titled ***E.I. Dupont India Private Limited v. Commissioner, VAT, Delhi & Anr*** [which relates to F-Forms].

11.1. Needless to add, this direction 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.

12. The writ petition is disposed of, in the aforesaid terms.

13. Consequently, pending application shall stand closed.

(RAJIV SHAKDHER)
JUDGE

TARA VITASTA GANJU, J
JUDGE

OCTOBER 11, 2022/pmc