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

\+ **W.P.(C) 11322/2024**

BHARAT HEAVY ELECTRICALS LTD. .....Petitioner

Through: Mr. Rajesh Jain, Mr. Virag Tiwari, Mr. Ramashish, Mr. Rishabh Jain and Ms. Tanya Saraswat, Advocates.

versus

COMMISSIONER OF TRADE AND TAXES .....Respondent

Through: Mr. Mayank Kamra with Mr. Manbhar Mittal Advocates for Mr. Rajeev Aggarwal ASC.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE AMIT SHARMA

<u>O R D E R</u>

% 17.12.2024

1. This hearing has been done through hybrid mode.

2. The present writ petition under Articles 226 and 227 of the Constitution of India has been filed by the Petitioner seeking the following prayers: -

> "*(a) direct the respondent to release interest beginning from 28.9.2017 till 19.6.2023 in accordance with sec 42(1) of the Act;*
> *(b) direct the respondent to release interest beginning from 24.6.2014 till 27.9.2017 under second proviso to sec 42(1) subject to the outcome of judgment of the Hon'ble Supreme Court in the case of Vizien Organic case (supra).*
> *(c) award compensation/damages to the petitioner for non-grant of interest till date;*
> *(d) issue a Writ of Mandamus or any other Writ, order or direction;*
> *(e) pass any other order or orders, direction or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.*"

3. On the last date of hearing, i.e., 9th December, 2024, this Court had

passed the following directions: -

> "*3. It is made clear that this shall be the last opportunity given to the Department to pass a reasoned and speaking order. If the said order is not passed by 15th December, 2024, the concerned Commissioner shall remain present in-person before this Court on the next date of hearing.*
> *4. Mr. Jain, has handed over a chart computing the interest as per Section 42 (1) of the Delhi Value Added Tax, 2004 to the learned Counsel for the Respondents and the same shall also be forwarded to the concerned official and be verified*."

4. Insofar as the refund amount is concerned, the same has been paid by the Department and regarding the claim of interest payable, the Department had passed a reasoned order on 16th December, 2024 in compliance of the aforesaid directions issued by this Court on the last date of hearing. The order passed by the Respondent/Department has been handed over by the learned Counsel for the Respondent and the same is taken on record. The operative portion of the said order reads as under:

> *"13. A conjunct reading of these provisions on the context of the case clearly brings out that the period within which the refund of the excess amount is to be made is to be counted from the date when the relevant statutory Forms (C, F,H etc.) are furnished by the dealer. It is thus clear that the amount due becomes a refund when it is elected to be so treated by the dealer and the various provisions governing the time limit in terms of section 38(3) as well as the provisions of exclusion of time for calculating the said time limit as provided under section 38(7) would become applicable to the entire amount of the refund.*
>
> ***xxx xxx xxx***
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> *18. In terms of above discussion, I hold that contention of the Applicant that he is eligible for interest from the date of filing of original return cannot be accepted as devoid of any merit and hence, it is liable to be rejected. I further hold that interest would*

only be payable from the date of expiry of two months from filing of Form DVAT-21 after attaining finality of default assessment under the CST Act. Accordingly, calculation of interest is as under: -

S. No.	**Tax Period**	**Refund Amount [In Rs.]**	**Date of Default Assessments under the CST Act**	**Date of filing of Form DVAT-21**	**Date from which interest is to be calculated**	**Date of Refund Order**	**No. of Days**	**Amount of interest calculated @6%[In Rs.]**
1.	4th Quarter, 2013-14	1,01,02,532	04.08.2022	19.01.2023	19.03.2023	07.06.2023	81	1,34,516

5. As can be seen from the above order, the interest has been calculated from the date of filing Form DVAT-21, though the claim of the Petitioner is for a longer period. Let the interest in terms of the above order be released to the Petitioner within a period of 8 weeks. Insofar as the claim of interest for remaining period which has been rejected by the Department is concerned, the Petitioner is free to avail of its remedies in accordance with law in respect of the order dated 16th December 2024.

6. The order passed by the competent authority is stated to have been uploaded on the official portal of the Respondent/Department. Let the same be communicated to the Petitioner.

7. The petition is disposed of in the above terms along with all pending applications.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

DECEMBER 17, 2024/*kr/bh/Ns*