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

Date of Decision: 20th May, 2025

\+ **W.P.(C) 2562/2021**

MIS DREAMCANN FOODS PRVIAE LIMITED .....Petitioner

Through: Mr. Rakesh Kumar, Mr. Parvesh Gambhir and Mr. Akul Mangla, Advocates.

versus

COMMISSIONER OF DELHI VALUE ADDED TAX, & ANR. .....Respondents

Through: Mr. K.G. Gopalakrishnan, Ms. Nisha Mohan Das, Ms. Girish Kumar Kaul, Mr. Kunwar Raj Singh, Advocates. Mr. Aditya Kumar Jha, Asstt. Commissioner, Ward 208-206, KCS Zone, Deptt. Of Trade & Taxes. adityamithila@gmail.com

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- Dreamcann Foods Pvt. Ltd. under Article 226 of the Constitution of India, *inter alia*, seeking issuance of an appropriate writ directing the Respondent to issue requisite forms to the Petitioner in respect of the goods transferred under inter-state trade and commerce under Section 6A of the Central Sales Tax Act, 1956 during different assessment years.

3. The present case was adjourned *sine die vide* order dated 25th March, 2021 which reads as under:

> *"Learned counsel appearing for the respondents submits that issue involved in this writ petition is also pending before the Hon'ble Supreme Court in SLP No.13928/2017 and stay has already been granted by the Hon'ble Supreme Court. Hence, this matter is adjourned sine die.*
> *Learned counsel for the parties in this writ petition are permitted to mention the matter as and when the Special Leave Petition is disposed of by the Hon'ble Supreme Court or if any direction is given by the Hon'ble Supreme Court for further action to be taken in this matter."*

4. Ld. Counsel for the parties submits that the appeal being ***C.A. No. 004573/2017*** titled '***Commissioner Department of Trade and Taxes v. Ingram Micro India Pvt. Ltd.'*** filed by the Department assailing the judgment dated 1st February passed by a Co-ordinate bench of this Court in ***W.P. (C) 8272/2015*** titled '***Ingram Micro India Pvt. Ltd. v. Commissioner Department of Trade and Taxes & Anr.'*** is still pending in the Supreme Court.

5. Ld. Counsel for the parties have relied upon certain other decisions of the Co-ordinate Bench including the decision in ***W.P. (C) 7411/2020*** titled ***GSP Power System Pvt. Ltd. vs. Commissioner of Goods and Services Tax Department of Trade and Taxes & Anr.***. The said matter was also a similar matter decided while the appeal was pending in the Supreme Court against ***Ingram Micro (Supra).*** The operative portion of the said decision reads as under:

> *2. Present writ petition has been filed challenging the rejection by respondent authorities of petitioner's request for*

correction of the return filed for first quarter of Year 2017-18 and refusal to give statutory forms under Central Sales Tax (Delhi) Rules.

3. Petitioner further seeks a direction to the respondent authorities to allow the petitioner's revision of returns for the year 2017-18 as per the provisions of DVAT Act and Rules.

4. Learned counsel for the petitioner states that the petitioner failed to mention the details of Inter-State branch transfers for the first quarter of Year 2017-18 in the Form 2A uploaded on the DVAT website while filing his returns. He further states that petitioner requested the respondent no.2 to grant permission to revise the aforesaid returns but the said request was rejected.

5. He submits that action of the respondent no.2 of not allowing revision of details of requirement of form 'F', is perverse in law as it is contrary to the provisions of the DVAT Act and Central Sales Tax (Delhi) Rules which permit issuance of forms.

6. He relies upon the judgment of this Court in WP(C) No.8709/2018 whereby this Court had directed the respondent to release the concerned form 'F' within two weeks. He, however, points out that SLP preferred. against the said judgment has been admitted and the matter is pending before the Supreme Court.

7. On the other hand, Mr. Satyakam, learned Additional Standing counsel for the respondents submits that the decision of this Court in ***M/s Ingram Micro India Pvt. Ltd. v. Commissioner DT&T & Anr., W.P. (C No. 8272/2015*** *is under challenge before the Supreme Court in Civil Appeal No. 4573/2017 and the Supreme Court has granted leave in the said matter vide order dated 27th March, 2017. He also points out that this Court rendered decisions in several similar cases, including* ***W.P. (C) No. 2633/2017, M/s. Indian Oil Corporation Ltd. v. Commissioner, VAT*** *decided on* ***11th April, 2017****, which have been appealed against in the Supreme Court and the Supreme Court has stayed the operation of the judgment of this Court.*

8. Mr. Satyakam points out that in the light of the interim *orders passed by the Supreme Court, while deciding another writ petition i.e.* ***Ingram Micro*** *India* ***Ltd. v. Commissioner, Department of Trade and Taxes and Anr., W.P. (C) No. 8435/2018****, decided on 04th December, 2018, this Court issued directions for issuance of segregated and separate 'C' Forms. However, the directions issued by this Court were suspended till the Civil Appeals before the Supreme Court were pending.*

9. Same is the position in the decision of this Court in ***Allied Automation Engineering Services Pvt. Ltd. v. Commissioner of Trade and Taxes, W.P. (C) No. 9474/2018*** *decided on 10th September, 2018, in* ***M/s. Samsung C&T Pvt. Ltd. v. The Commissioner, Trade & Taxes, & Anr., W.P. (C) No. 4092/2017*** *decided on 15th February, 2019, in* ***E.I. Dupont India Private Limited v. Commissioner, VAT, Delhi & Anr, C.M. No. 47356/2018 in W.P. (C) No. 4952/2017*** *decided on 27th February, 2019 and* ***C G Power And Industrial Solutions Limited vs Department of Trade and Taxes & Ors., W.P. (C) No. 3024/2019*** *decided on 15th January, 2020.*

10. Mr. Satyakam contends that this Court has recently in similar matters been either adjourning matters or is allowing the petition but suspending the

11. Having heard the counsel for the parties, this Court is of the view that no useful purpose would be served by keeping the petition pending. Consequently, this Court directs the respondent no.2 to allow the amendment sought by the petitioner in its return of first Quarter for the Financial Year 2017-18. However, this direction shall remain suspended till the Civil Appeals pending before the Supreme Court, taken note of hereinabove, are decided and this direction shall abide by the decision that the Supreme Court renders.

12. With the aforesaid direction, present writ petition and pending application stand disposed of.

6. Following the said decision of the Co-ordinate Bench of this Court in ***GSP Power System Pvt. Ltd. (Supra)***, in the facts of the present case, the Petitioner is permitted to rectify its DVAT returns for the second and third

quarter of A.Y. 2014-15, first quarter of A.Y. 2015-16, second and third quarter of A.Y. 2016-17 and fourth quarter of A.Y. 2016-17 in order to enable the issuance of the requisite forms to the Petitioner.

7. These directions shall however remain suspended till the appeal in ***Ingram Micro India Pvt. Ltd. (Supra)*** as also the ***M/s Commissioner, VAT Delhi & Ors. v. M/s Indian Oil Corporation Ltd. [SLP(C) No. 13928/2017]*** are pending before the Supreme Court and are decided. This direction shall abide by the decision of the Supreme Court in the said case.

8. The present petition is disposed of in these terms. Pending applications, if any are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 20, 2025
v/ck