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

\+ **W.P.(C) 14353/2025 & CM APPL. 58792/2025**

M/S AKASH AUTO CENTER .....Petitioner

Through: Mr. Kaushik, Mr. Saurabh Malhotra, Mr. P.K. Bansal, Mr. Ram Naresh and Mr. Abhishek Arya, Advs.

versus

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

Through: Ms. Vaishali Gupta, Panel Counsel (Civil)/GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

O R D E R

% 17.09.2025

1. This hearing has been done through hybrid mode.

CM APPL. 58793/2025

2. Allowed subject to all just exceptions. The application is disposed of.

W.P.(C) 14353/2025 & CM APPL. 58792/2025

3. The present petition is filed by the Petitioner under Articles 226 and 227 of the Constitution of India, *inter alia*, challenging the Writ of Demand dated 10th May, 2023 by which the concerned Value Added Tax Officer *(hereinafter 'VATO')* is seeking to recover the following amounts, in view of the recovery certificate, issued in respect of the assessment year 2008-09:

Assessment order No.	*TaxPeriod*	*Assesment year*	*Total Amount Due Tax and Interest*
41035441112	*Mar 2009*	*2008-2009*	*3388713.12*
41036111112	*Annual-2008*	*2008-2009*	*135273.97*
41036471112	*Annual-2008*	*2008-2009*	*2769859.04*
40297710910	*Feb-2006*	*2005-2006*	*297687.24*

4. The submission on behalf of the ld. Counsel for Petitioner is that, insofar as assessment year 2008-2009 is concerned, *vide* order dated 23rd April, 2012, passed by the Additional Commissioner, Objection Hearing Authority, *(hereinafter 'order dated 23rd April, 2012')* the matter was remanded for a fresh assessment to the VATO. The operative portion of the said order reads as under:

> *"The condition prescribed u/s 74(1) of the Act was complied with by the objector and an amount of Rs.362800 under DVAT-Act has been deposited on 15-02-2012, and the objection was taken up on merit. VATO concerned may verify amount deposited from the scroll before giving benefit of the same*
>
> *As per the details filed by the objector, the dealer has filed the DVAT 16 with the details of purchases made without ITC for the four-tax periods of Dec. to March 2008-09 which is not as per the provisions of DVAT act. The counsel of the dealer admitted the mistake but pleaded that the mistake was without any malafide and that the ratio of profit is fixed and that due tax has been paid.*
>
> *I have gone through the objection filed in DVAT-38 form, and have heard the arguments of the counsel of the objector and those of DR, whereupon, I am of the considered view that the argument of the objector that mistake in filing DVAT 16 was without any intention to defraud the revenue be accepted. Hence the objection filed in respect of tax and interest liability is accepted with the direction to furnish the details of corrected purchase and sales for 2009-09 to concerned VATO who shall make fresh assessment after giving due opportunity.*
>
> *However, in view of the aforesaid, and admitted mistake on the part of the objector, the notice of penalty assessment u/s 86(14) is upheld and the penalty assessment u/a 86(10) is remitted to Rs. 10000/- for each of the four tax periods of*

December 2008; Jan., Feb., and March 2009. The objector shall deposit the liability within 15 days and report to VATO concerned with proof of the same and documents in support within 7 days thereafter."

5. Further, ld. Counsel on behalf of the Petitioner also submits that the re-assessment directed by the Adjudicating authority *vide* order dated 23rd April 2012, has not been done till date, and the recovery certificate is sought to be issued in respect of amounts for which the re-assessment has to be done.

6. Issue notice. Ms. Vaishali Gupta, ld. Panel Counsel for the Respondent accepts notice.

7. Insofar as the recovery for the amount for the assessment year 2005-06 is concerned, ld. Counsel for the Petitioner submits that he does not press any relief for the same.

8. Insofar as the assessment year 2008-09 is concerned, let Ms. Vaishali Gupta check up as to whether any re-assessment has been done, and if any order has been passed. If so, let the same be placed on record along with counter affidavit within four weeks. Rejoinder thereto be filed within four weeks.

9. No coercive measures shall be taken till the next date of hearing.

10. List before Joint Registrar on 28th October, 2025.

11. List before Court on 17th December, 2025.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

SEPTEMBER 17, 2025/kp/sm