

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL, DELHI
Sh. Narinder Kumar, Member (J) and Sh. Rakesh Bali, Member (A)

Misc. No : 27-30/21-22
In Appeal No. 197-200/ATVAT/2021-22
Date of Order: 05/08/2021

M/s. Colston Bath & Spa Private Limited Appellant –Applicant
65, Rajasthali Udyog Nagar,
G.T. Karnal Road,
Jahangirpuri,
Delhi – 110 033.

Versus

Commissioner of Trade & Taxes, Delhi.Respondent

Present:

Counsel for the Appellant- Applicant : Sh. M. L. Garg
Counsel for the Revenue : Sh. N. K. Gulati

ORDER

(on Stay Application U/s 76(4) of DVAT Act)

1. This order will dispose of four applications filed by the appellant with appeal Nos. 197-200/ ATVAT/2021, with prayer for admission of these appeals without calling upon the appellant to deposit any

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amount by way of pre-deposit of the disputed amount of tax and interest.

2. Assessing Authority - Ld. VATO (Ward 70) vide orders dated 31/03/2018 directed the appellant-applicant to pay a sum of Rs.41,98,040/-, for the 1st qtr. of 2013-14 ; to pay a sum of Rs. 40,73,390/-, for the 2nd qtr.; to pay a sum of Rs. 31,83,181/-, for the 3rd qtr.; to pay a sum of Rs. 40,11,383/-, for the 4th qtr., towards additional tax and interest, under CST Act.

3. Vide order dated 16/09/2020, Ld. OHA reduced the demand in respect of all the four quarters, keeping in view that some of the C & F forms were produced before him during objections, and also taking into consideration the missing statutory Forms.

Hence, these appeals accompanied by the present four applications.

4. Learned counsel for the appellant – applicant has submitted that subsequent to the disposal of the objections by learned OHA, appellant has received remaining Statutory forms, detail of which has been given in para B-3 of the brief statement of facts and grounds of appeal. Learned counsel submits that the appellant – applicant could not submit these statutory forms earlier as he was prevented by sufficient cause.

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5. From the details available in above mentioned para B-3 of the grounds of appeal, it appears that the appellant has subsequently received the said statutory forms. The triable issue in this appeal is as to whether these statutory forms could not be submitted by the appellant earlier due to sufficient cause. As per case of the appellant statutory forms worth Rs. 11,260/- would remain to be filed and the tax payable on these forms comes to Rs. 1182/-.

6. On the point of pre-deposit for the purpose of admission of appeal, sub-section (4) of section 76 of the Act provides that no appeal against an assessment shall be entertained by the Appellate Tribunal, unless the appeal is accompanied by satisfactory proof of the payment of the amount in dispute, and any other amount assessed as due from the person.

As per first proviso to sub-section (4) of section 76, the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of some or all of the amount in dispute, on the appellant furnishing in the prescribed manner security for such amount, as it may direct.

As per second proviso to sub-section (4) of Section 76, no appeal shall be entertained by the Appellate Tribunal unless it is satisfied that such amount as the appellant admits to be due from him has been paid.

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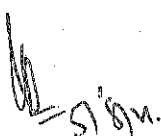


7. In the given facts and circumstances and taking into consideration the above aforesaid triable issue, the appeal is admitted subject to deposit of Rs. 1182/- by the appellant within a week, by way of pre-condition for admission of this appeal. The application is disposed of accordingly. Counsel for appellant - applicant to apprise learned counsel for the Revenue regarding compliance with this order within time so that on the next date i.e. on 26/08/2021 the appeal is taken up for final hearing.

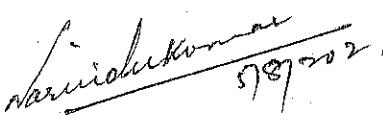
9. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 05/08/2021


(Rakesh Bali)
Member (A)



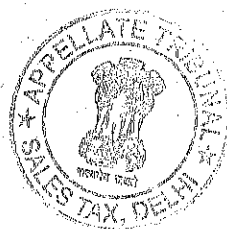

(Narinder Kumar)
Member (J)

Appeal No. 197-200/17117/2021-22/704-711

Dated: 6/8/2021

Copy to:-

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| (1) VATO (Ward- 70) | (6) Dealer |
| (2) Second case file | (7) Guard File |
| (3) Govt. Counsel | (8) VATO (L&J) |
| (4) Secretary (Sales Tax Bar Association) | |
| (5) PS to Member (J) for uploading the judgment on the portal of DVAT/GST, Delhi - through EDP branch. | |




PS/ PA to Member (A)