

19

PS

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI  
Sh. Narinder Kumar, Member (Judicial) & Sh. Rakesh Bali, Member (Administrative)

Appeal No : 120-122/ATVAT/2020

Date of Decision : 17/08/2021

M/s. Arushi Arts,

229, Okhla Industrial Area Estate, Phase-3,

New Delhi – 110020.

..... Appellant - Applicant

V

Commissioner of Trade & Taxes, Delhi

..... Respondent

Counsel representing the Appellant : Sh. R.K. Aggarwal

Counsel representing the Revenue : Sh. M.L. Garg

**ORDER**

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

1. This common order is to dispose of three applications U/s 76(4) of DVAT Act, 2004 (here-in-after referred to as the Act) in the above mentioned three appeals, as same point is involved in all these matters.

2. The appellant, a dealer registered by Tin No. 07360222695, has challenged order dated 01/07/2020 passed by learned Objection Hearing Authority (OHA), whereby three objections filed by the appellant – objector were disposed of. The objections were filed against notice of default assessment of tax, interest and penalty, dated 11/03/2020, issued u/s 9(2) of Central Sales Tax Act (CST). Assessment pertains to second, third and fourth quarter of 2015-16.

3. Sub-section (4) of section 76 of the Act provides that no appeal against an assessment shall be entertained by the Appellate Tribunal,

*Narinder Kumar*  
17/8/21



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.

4. 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.

5. 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.

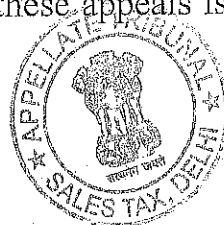
7. Learned counsel for the appellant – applicant has submitted that subsequent to the disposal of the objections by learned OHA, appellant has received some of the Statutory forms, detail of which has been given in paper book i.e. from page No 1 to 11. Learned counsel submits that the appellant – applicant could not submit these statutory forms earlier. The prayer is that appeals be admitted waiving the condition of pre deposit.

8. From the details available in above pages of the paper book, learned counsel for the Revenue <sup>rightly</sup> has pointed out that C- form available at page No. 7 and the annexure 'A' appended there-to, do not pertain to the tax period, to which the appeals pertain. Learned counsel for the appellant does not dispute this submission.

9. <sup>Prima facie</sup> It appears that the appellant has subsequently received the remaining statutory forms with annexure, available from page No. 1 to 6 and Page No. 9 to 11. The triable issue in these appeals is as to whether

17/8/21

17/8




these statutory forms could not be submitted by the appellant earlier due to sufficient cause.

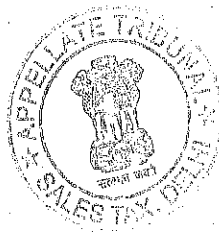
10. In the given facts and circumstances and taking into consideration the above aforesaid triable issue, these appeals are admitted subject to deposit of Rs. 20,000/- by the appellant, by way of pre-condition for admission of these appeals. These applications are disposed of accordingly. Counsel for appellant submits that the appellant shall deposit this amount within 15-days. Applicant to apprise learned counsel for the Revenue regarding compliance with this order within time so that on the next date i.e. on 08/09/2021 the appeals shall be taken up for final hearing.

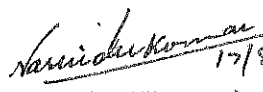
11. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 17/08/2021

  
17.8.21.  
(Rakesh Bali)  
Member (A)



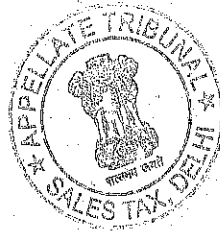
  
17/8/2021  
(Narinder Kumar)  
Member (J)

Appeal No. 120-124/ATVAT/2020/776-783

Dated: 18/8/21

Copy to:-

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|---|----------------|
| (1) VATO (Ward- 9 )   | (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. |                |



  
REGISTRAR