

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

Appeal No : 119/ATVAT/2019-20

Date of Decision : 26/07/2021

M/s. Sadhna Jewels Pvt. Ltd.

2213, Private Office No. 01, Channa Complex,

Hardyal Singh Road,

Karol Bagh,

Delhi – 110005.

..... Appellant-Applicant

V

Commissioner of Trade & Taxes, Delhi

..... Respondent

Counsel representing the Appellant

: Sh. A. K. Rai,

Counsel representing the Revenue

: Sh. S.B. Jain

ORDER

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

1. Appellant – Applicant is a registered under DVAT Act having Tin No. 07210397911 (Ward No. 45). By way of present appeal, applicant has challenged order dated 30/4/2019 passed by learned Asstt. Commissioner – SOHA. Vide impugned order, the appellant – applicant has been directed to pay tax @ 1% on the value of missing F-Forms i.e. Rs. 2,82,57,462/- with interest.

Narinder Kumar
26/7/2021

26/7



2. Prior thereto, vide order dated 30/3/2019, Assessing Officer directed the appellant – dealer to pay a sum of Rs. 27,85,304/- even after allowing exemption on production of 17 original F-forms.

3. The applicant has challenged the impugned order passed by learned SOHA on the ground that there is no requirement for submission of F-forms and where goods have been sent to the job workers, for job work only.

4. 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

DR
26/7

24/7



satisfied that such amount as the appellant admits to be due from him has been paid.

5. Learned counsel for the applicant has pointed out that after disposal of the objections, applicant has received more F-forms. Status of the said F-forms subsequently received is available in the statement dtd. 26/7/2021 submitted by the applicant in this appeal.

6. Learned counsel has submitted that keeping in view the amount of tax already deposited, only a sum of Rs. 1,41,000/- remains to be deposited and that keeping in view this much balance amount, the appeal be admitted while waiving the condition of pre-deposit.

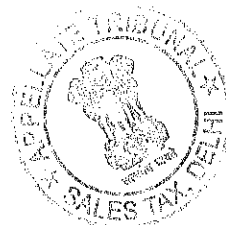
Learned counsel for the Revenue has no objection to the admission of the appeal, in view of the above submission made by learned counsel for the applicant, having regard to the large sum of tax already deposited by the applicant.

7. When, as submitted, only a sum of Rs. 1,41,000/- is the balance amount of the disputed demand, the appeal is admitted without calling upon the applicant to deposit any further sum towards the balance demand. This application is disposed of accordingly.

Be put up on 13/9/2021 for final arguments.

Handwritten signature
26/7

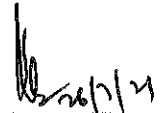
Handwritten signature
26/7




8. 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 : 26/07/2021


(Rakesh Bali)
Member (A)




(Narinder Kumar)
Member (J)

Appeal No. 119/ATVAT/19-20/624-631

Dated: 28/7/2021

Copy to:-

- | | |
|--|----------------|
| (1) VATO (Ward-45) | (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)