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

Application No. 113/19
Appeal No : 33/ATVAT/2019
Date of order : 24/08/2021

M/s. Shashi Dhawal Hydraulics Pvt. Ltd.,
Caxton House 2E Rani Jhansi Road,
Jhandewalan Extension,
New Delhi—110055. Appellant - Applicant

V

Commissioner of Trade & Taxes, Delhi Respondent

C.A. representing the Appellant : Ms. Shilpi Dewan
Counsel representing the Revenue : Sh. S.B. Jain

ORDER

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

1. This order is to dispose of application U/s 76(4) of DVAT Act, 2004 (here-in-after referred to as the Act) in the above mentioned appeal. Prayer in the application is that appeal be admitted without calling upon the applicant to pay any tax.

Narinder Kumar
24/8/21

Rakesh Bali
24/8



2. The appellant, a dealer registered vide Tin No. 07960340996 (Ward No. 43), has challenged order dated 21/5/2019 passed by learned Objection Hearing Authority (OHA), whereby its objections filed were disposed of. The objections were filed against notice of default assessment of tax, interest and penalty, dated 29/1/2018, issued under Central Sales Tax Act (CST). Assessment pertains to the year 2013.

3. 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.

4. Learned C.A. representing the appellant – applicant has submitted that subsequent to the disposal of the objections by learned OHA, appellant has received more Statutory forms, details of which has been given in the list submitted today. Learned C.A. submits that the appellant – applicant could not

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submit these statutory forms earlier. The prayer is that appeals be admitted waiving the condition of pre deposit.

5. After going to the details available in pages 1 to 24, annexed to list of C- forms, learned counsel for the Revenue submitted that he has checked these copies and found that the statutory forms now sought to be produced, pertains to the period from 1/4/2013 to 31/3/2014.

6. It appears that the appellant has subsequently received the remaining statutory forms with annexure. The triable issue in this appeal is as to whether these statutory forms could not be submitted by the appellant earlier due to any sufficient cause.

7. In the given facts and circumstances and taking into consideration the above aforesaid triable issue, this appeal is admitted subject to deposit of 10% of the disputed demand toward tax & interest, after excluding the value of the C-forms submitted today by the appellant, by way of pre-condition for admission of this appeal. Appellant-applicant to deposit the amount by way of pre deposit within 25-days from today. Authorised representative to the Applicant to apprise learned counsel for the Revenue regarding compliance with this order within time so that on the next date i.e. on 08/10/2021 the appeal shall be taken up for final hearing. This application is disposed of accordingly.

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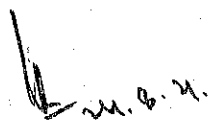
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8. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 24/08/2021


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



Appeal No. 33/ATvAT/2019/814-821

Dated: 26/08/21

Copy to:-

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| (1) VATO (Ward-43) | (6) Dealer |
| (2) Second case file | (7) Guard File |
| (3) Govt. Counsel | (8) AC(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