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

Appeal No. 197-200/ATVAT/2021

Date of Judgment: 26/8/2021

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

.... Appellant

V

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel for the Appellant
Counsel for the Revenue

: Sh. M. L. Garg.
: Sh. N. K. Gulati.

JUDGMENT

1. The above captioned four appeals have been filed challenging order dated 16/9/2020 passed by VATO (ward No. 70) - learned Objection Hearing Authority (OHA), under Central Sales Tax Act (CST). The appeals pertain to all the four quarters of the year 2013.

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.

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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.

4. Arguments heard. File perused.

5. Learned counsel for the appellant ~~applicant~~ submits that subsequent to the disposal of the objections by learned OHA, appellant received certain statutory forms (C-Forms) which the appellant has placed on record, and that the same be allowed to be considered by the Assessing Authority.

Learned counsel for the appellant has submitted that the C-forms filed in these appeals could not be earlier submitted by the appellant due to sufficient cause. The contention is that the appeal be disposed of for re-assessment by the assessing Officer, keeping in view the C-forms now produced.

6. Learned counsel for Revenue has gone through the list of the forms, submitted by the appellant before this Tribunal and



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submitted that the appellant has not so far filed C-forms worth Rs. 11,260/-.

In this regard, it is pertinent to mention here that the appellant has deposited tax to the tune of Rs. 1,182/- by way of pre-deposit u/s 76(4) of the Act.

7. Para B-3 of the memorandum of appeal depicts the C-forms which have been received subsequently i.e. after the passing of the impugned order by learned OHA. This table also describes the value of the C-forms which are still missing/ have not so far been received by the appellant.

8. In the case of **M/s Kirloskar Electric Co. Ltd. V/s. Commissioner of Sales Tax**, 1991 Vol. 83 of Sales Tax Cases, 485, decided by Hon'ble High Court of Delhi, Hon'ble Judge observed in the manner as :-

“The State is entitled to the tax which is legitimately due to it. When the Sales Tax Act provides that a deduction can be claimed in respect of sales affected in favour of registered dealers than the deduction should be allowed. The proof in support of claiming the deduction is the production of the S.T. 1 forms. Even though the S.T. 1 forms were produced after the assessment had been completed. It will not be fair or just not to allow the legitimate deduction.....”




9. In the light of the judgment of Hon'ble Delhi High Court in M/s Kirloskar Electric Company Ltd., appellant herein deserves another opportunity to submit C-forms, referred to above.

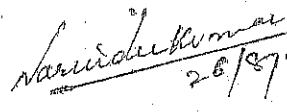
Accordingly, these appeals are disposed of so as to allow another opportunity to the appellant to present before the Assessing Authority, statutory forms, copies whereof have been filed before this Tribunal. The Assessing Authority shall subject these C-forms to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said C-forms, now filed before this Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law. Appellant is hereby directed to appear before the Assessing Authority on 15/9/2021.

10. 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 : 26/8/2021


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



Appeal No. 197-200/DVAT/2021/902-909

Dated: 3/9/21

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| (1) | VATO (Ward- 70) | (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