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

Appeal No : 94/ATVAT/2019

Date of Decision : 08/09/2021

M/s. RAD Elan Distributors Pvt Ltd.

F-90/33, Okhla Industrial Area,

Ph.-I, New Delhi – 110020.

..... Appellant

V

Commissioner of Trade & Taxes, Delhi

..... Respondent

Counsel representing the Appellant

: Sh. M.L. Garg,

Counsel representing the Revenue

: Sh. P.Tara

JUDGMENT

1. Appellant – Applicant is a dealer registered under DVAT Act, as per Tin No, 07260355349 (Ward No. 63). By way of present appeal, appellant has challenged order dated 8/7/2019 passed by learned Special Objection Hearing Authority (SOHA).

2. Vide impugned order, SOHA has allowed exemption to the appellant in respect of additional 97 C-Forms produced during hearing on objections, and levied tax @ 18%, in respect of missing C-forms worth Rs. 1,78,95,603/-, with interest.

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3. Prior thereto the Assessing Officer, vide order dated 2/3/2019 directed the appellant to pay additional tax to the tune of Rs. 1,11,17,237/- with interest of Rs. 64,14,493/-, and in total Rs. 1,75,31,730/-. Tax and interest were levied as the dealer failed to provide requisite documents including statutory forms, despite issuance of notices u/s 59(2) of Delhi Value Added Tax Act, 2004 (here-in-after referred to as the Act).

4. Objections were filed against order dated 2/3/2019 passed by Assessing Authority. The matter pertains to tax period – Annual, 2014.

5. Arguments heard. File perused.

6. Learned counsel for the appellant has submitted that after the disposal of the objections by learned SOHA, dealer has received C-Forms worth Rs. 1,78,42,294.40 and as such missing C-forms are only worth Rs. 53,308.60.

Learned counsel for the appellant has submitted that the list in respect of the C-forms now produced is at page 4, Ex. C-1, whereas as copies of the C-forms now produced are available from page No. 5 to 39. He further submits that there was sufficient cause for non filing of C-forms before learned SOHA, the same having not been received by them from the dealer.



7. Learned counsel for the Revenue has gone through the list and the copies of the C-forms annexed thereto and submitted that all these pertain to the tax period Annual-2014.

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



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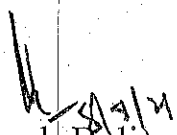
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verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said C-forms, now filed before this Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law. Appellant is hereby directed to appear before the Assessing Authority on 23/9/2021.

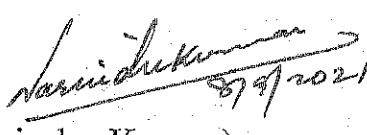
10. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 08/09/2021


(Rakesh Bali)
Member (A)



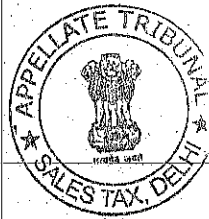

(Narinder Kumar)
Member (J)

Appeal No. १५/११११/२०१९/११२-१११

Dated: 13/9/21

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| (1) | VATO (Ward- 63) | (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