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

Appeal No : 213/ATVAT/2017

Date of Decision : 21/09/2021

M/s. Vidyut Metalics Ltd.,
Malhotra House, 4th floor,
Opp. GPO Fort,
Mumbai-400001.

And

WZ/12, 4 Sona Bazar,
Delhi – 15.

..... Appellant

V

Commissioner of Trade & Taxes, Delhi

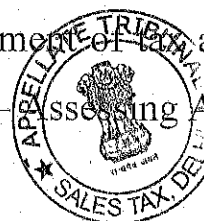
..... Respondent

Counsel representing the Appellant : Sh. Sukhpreet Mann.

Counsel representing the Revenue : Sh. P. Tara.

JUDGMENT

1. Appellant has challenged order dated 25/7/2017 passed by Sh. Vinay Kumar, Special Commissioner-IV, learned Objection Hearing Authority (OHA). Vide impugned order learned OHA disposed of objections filed by the dealer – appellant. The dealer filed objections against notices of default assessment of tax and interest, issued on 10/12/2014 by VATO (ward-43) – Assessing Authority.

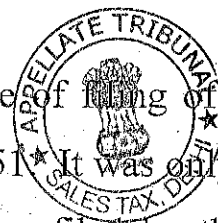


2. The matter pertains to the year 2008-09.

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3. Vide notices of default assessment of tax and interest, dealer was called upon to deposit sum of Rs. 13,02,01,643/- towards tax and interest under Sales Tax Act (CST).
4. Vide impugned order, learned OHA observed that furnishing of original statutory forms is mandatory, but in this case, dealer failed to furnish the original statutory F-forms, and as such no relief could be allowed in favour of the dealer. Accordingly, the objections were rejected.
5. Hence this appeal.
6. Arguments heard. File perused.
7. The only argument put forth by learned counsel for the appellant is that the dealer – appellant had furnished original F-forms with DVAT – 51, but the same were lost by department and that the dealer has collected copies of DVAT – 51 vide which the original F-forms were submitted to the department; that dealer – applicant has submitted copies of DVAT-51 with copies of duplicate F-forms in respect of the four quarters of the year 2008-09 before this Tribunal, after the dealer has been successful in collecting the same, and as such the dealer – appellant be allowed exemption in this regard while disposing of this appeal.
8. It may be mentioned here that at the time of filing of the appeal, dealer – appellant did not file any DVAT-51. It was only during the pendency of the appeal that on application filed by the dealer, 4



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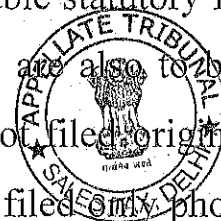
DVAT-51 pertaining to all the four quarters of the year 2008-09 were submitted before the Tribunal and the same were taken on record.

9. As is available from the photo copies of these 4 DVAT -51 forms, the dealer submitted to the department original F-forms, specified therein on 28/12/2011.

10. We have come across circular dated 5/11/2009 issued by Jt. Commissioner, (Law & Justice) which is to the effect that in exceptional cases where statutory forms claimed to have been deposited by the dealers along with DVAT-51 forms, were lost or were not traceable, then credit in respect of such statutory forms may be allowed subject to the fulfilment of the following conditions:-

- i) Furnishing of the receipt in respect of submission of DVAT-51 form along with statutory forms for a particular quarter;
- ii) Duplicate parts of the statutory forms; and
- iii) Furnishing of indemnity bond by the dealer affirming therein that if any loss is caused to the government revenue, he shall indemnify the same to the government of the said loss.

11. While referring to this circular dated 5/11/2009, learned counsel for Revenue has pointed out that one of the conditions for grant of credit in respect of lost / not traceable statutory forms is that duplicate parts of the statutory forms are also to be furnished, but here the dealer – appellant has not filed original duplicate parts of the F-forms and rather, it has filed only photo copies of



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duplicate parts of the said forms, and as such the dealer – appellant is not entitled to any credit in respect thereof.

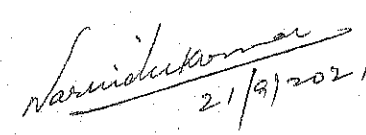
12. Learned counsel for the dealer – appellant admits that only photo copies of duplicate parts of F-forms have been filed before this Tribunal. Learned counsel further admits that original duplicate parts of F-forms are not available with the dealer.
13. Since the original duplicate parts of F-forms have neither been furnished nor the same are available with the dealer, for want of compliance with this mandatory requirement as per circular dated 5/11/2019 issued by Jt. Commissioner (L&J), we find that dealer – appellant is not entitled to claim credit in respect of the said F-forms, only photo copies of duplicate parts whereof have been filed.
14. In view of the above discussion, the appeal deserves to be dismissed. Same is hereby dismissed.
15. File be consigned to the record room. 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 : 21/09/2021


(Rakesh Bali)
Member (A)




(Narinder Kumar)
Member (J)

Appeal No. 213/ATVAT/2017/112-1119

Dated: 23/9/21

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