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

Misc. Application No. 117-120/ATVAT/21

In Appeal No. 229-232/ ATVAT/21

Date of order: 16/09/2021

M/s. Banaco Overseas,
B-3/9, Model Town, Part-1,
New Delhi – 110 009

.....Applicant

V

Commissioner of Trade & Taxes, Delhi.Respondent

Counsel representing the Applicant : Sh. M.K.Gandhi

Counsel representing the Revenue : Sh. S.B.Jain

ORDER

1. This order is to dispose of four applications u/s 76(4) of Delhi Value Added Tax Act, 2004 (hereinafter referred to as DVAT Act, 2004) filed by the appellant along with above captioned four appeals.
2. Appellant - dealer has challenged order dated 07/07/21 passed by Ld. Objection Hearing Authority (hereinafter referred to as the OHA) in respect of all the four quarters of the year 2015-16.
3. The impugned orders came to be passed after objections were filed by the dealer against notice of default assessment of tax and interest under CS Act issued by Assessing Authority.



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4. The dealer - applicant is a proprietorship concern registered with Department of Trade and Taxes, vide TIN No. 07200248585, and engaged in trading of corn, corn flavours and popcorn machine etc.

5. The Assessing Authority levied tax and interest because the dealer did not file statutory forms. Some forms were filed by dealer-applicant before the Ld. OHA. Accordingly, the dealer was allowed exemption in respect of the said Forms produced during hearing on objections. However, Ld. OHA levied tax and interest in respect of missing statutory forms.

6. Ld. Counsel for the applicant submits that Ld. OHA did not appreciate that applicant-dealer has no control over the purchase dealers for obtaining of statutory forms and that the dealer can make only persuasive efforts. The submission is that in this situation, Ld. OHA should not have upheld the levy of tax and interest.

7. Admittedly, the dealer is not having any other statutory forms so far. The fact remains that no additional statutory form has been filed with these appeals. It would be for the applicant to satisfy at the time of final arguments as to what efforts were made by the applicant-dealer in obtaining the remaining statutory forms, which were missing even at the time of hearing on the



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Dated: 17/9/21

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| (1) VATO (Ward-) | (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 (I) for uploading the judgment on the portal of | |
| DVAT/GST, Delhi - through EDP branch. | |




REGISTRAR