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

Appeal No : 33/ATVAT/2019

Date of order : 8/10/2021

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

..... Appellant

V

Commissioner of Trade & Taxes, Delhi

..... Respondent

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

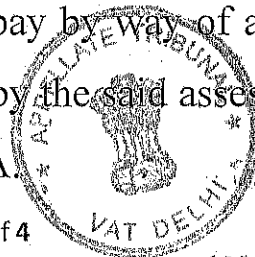
**JUDGMENT**

1. The above captioned appeal has been filed by the dealer challenging order dated 21/5/2019 passed by VATO - learned Special Objection Hearing Authority (OHA), under Central Sales Tax Act (CST). The appeal pertains to the year 2013.

2. Assessing Authority - VATO (Ward 43) vide orders dated 29/1/2018 directed the appellant to pay by way of additional tax and interest under CST Act. Aggrieved by the said assessment, the dealer filed objections before learned SOHA.

*Narinder Kumar*  
8/10/2021

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3. Vide order dated 21/5/2019, learned Objection Hearing Authority (OHA), disposed of the objections by allowing exemption on production of some C-forms but at the same time upheld levy of tax and interest in respect of the missing C-forms.

Hence, this appeal.

4. Arguments heard. File perused.

5. Learned counsel for the appellant 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 Authority, keeping in view the C-forms now produced.

6. Learned counsel for Revenue has gone through the list of the forms, already submitted by the appellant before this Tribunal, and submitted that these pertain to the tax period, to which this appeal relate.

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In this regard, it is pertinent to mention here that in terms of order u/s 76(4) of the Act, appellant was called upon to deposit, by way of pre-deposit 10% of the disputed demand towards tax and interest, after excluding the value of the C-forms submitted during pendency of this appeal. Accordingly, the appellant is stated to have deposited said percentage of the disputed demand of tax and interest on 30/8/2021.

7. Copies of the Statutory Forms filed by the dealer – appellant during pendency of this appeal are available from page 3 - 38 lying annexed to list now marked as Ex.-C-1, available at pages 1 & 2.

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.....”



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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, this appeal is 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 8/11/2021.

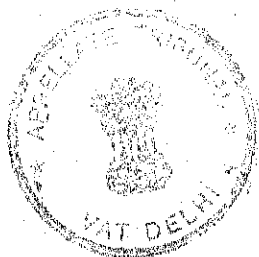
10. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

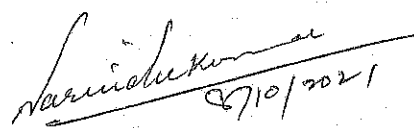
Announced in open Court.

Date : 8/10/2021

 8/10/21.

(Rakesh Bali)  
Member (A)



 8/10/2021

(Narinder Kumar)  
Member (J)

Appeal No. 33/ATVAT/2019/1352-59

Dated: 12/10/21

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<br>DVAT/GST, Delhi - through EDP branch. |                |
| (9) Commissioner (T&T)  |                |



**REGISTRAR**

