

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

Appeal No. 187-190/ATVAT/2020

Date of Judgment: 8/10/2021

M/s. Essilor India Pvt. Limited.

A-3, Okhla Industrial Area,

Phase-II, New Delhi.

.... Appellant

V

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel for the Appellant

:

Sh. Manoj Kumar

Counsel for the Revenue

:

Sh. S.B. Jain.

JUDGMENT

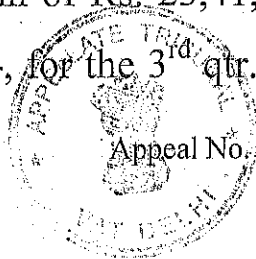
1. The above captioned four appeals have been filed challenging order dated 27/01/2021 passed by VATO (ward No. 93) - learned Objection Hearing Authority (OHA), under Central Sales Tax Act (CST). The appeals pertain to all the four quarters of the year 2015-16.

2. Assessing Authority - Ld. VATO (Ward 93) vide orders dated 03/03/2020 directed the appellant to pay a sum of Rs.28,52,343/-, for the 1st qtr. of 2015-16 ; to pay a sum of Rs. 23,41,906/-, for the 2nd qtr.; to pay a sum of Rs. 28,85,192/-, for the 3rd qtr.; to pay a sum of

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Rs. 23,94,816/-, for the 4th qtr., towards additional tax and interest, under CST Act.

3. On objections being filed by the dealer, learned OHA Vide order dated 27/01/2021, 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 proceedings on objections, and also taking into consideration the missing statutory Forms. Still feeling dissatisfied, the dealer has filed all these appeals.

4. Arguments heard. File perused.

5. It may be mentioned here that on 6/8/2021, learned counsel for the appellant submitted that the dealer had deposited the disputed demand towards tax and interest. Accordingly all the applications u/s 76(4) of DVAT Act were dismissed as not pressed.

6. Learned counsel for the appellant has submitted that due to pandemic, all offices are still not functional and that the head office of the dealer which is located in Bangalore as well as other branch offices have already taken steps to collect the statutory forms and that non receipt of the remaining statutory forms is beyond control of the dealer.

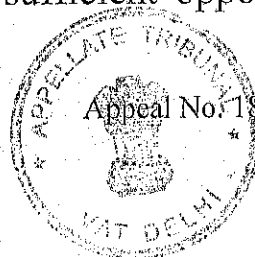
7. Learned counsel for the Revenue has contended that despite sufficient opportunity the dealer failed to produce the remaining statutory forms, and as such there is no merit in these appeals.

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8. Undisputedly, the notices of default assessment of tax and interest pertain to the year 2015-16. The said notices are dated 3/3/2020. Objections were filed before the learned OHA and the same remain pending there upto 27/1/2021. But even then the dealer did not file any of the remaining statutory during proceedings on objections. While filing these appeals, the dealer did not file any application to adduce any additional evidence or statutory form. Only today an application came to be filed seeking time for collection of statutory forms and submission thereof. On 5/10/2021, on behalf of the dealer, copy of e-mail dated 5/10/2021 has been filed which contains latest e-mail of the said date from Sh. Pramod Srivastava to Sh. Kamal Nanda thereby requesting the latter for two forms of 4th quarter of the year 2015-16. No material has been placed on record to suggest as to any other steps taken by the dealer before 5/10/2021 and after 27/1/2021 for collection of remaining statutory forms. Vide separate order of even date, request made on behalf of the dealer for adjournment, to enable the dealer to collect remaining statutory forms stand declined.

9. The fact remains that the dealer has not filed any statutory form, despite sufficient time and opportunity. No sufficient cause has been put forth for non submission of the remaining statutory forms. There is nothing on record to suggest that sufficient opportunity was not



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granted to the dealer by the learned OHA for production of remaining statutory forms. In the given situation, the impugned order regarding levy of tax deserves to be upheld.

10. On the point of interest, no argument has been advanced by learned counsel for the appellant, so as to challenge levy thereof.

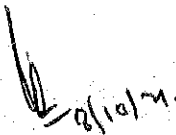
11. No other point has been agitated by learned counsel for the dealer – appellant.

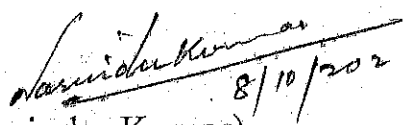
12. In view of the above discussion, finding no merit in these appeals, the same are hereby dismissed.

13. 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


(Rakesh Bali)
Member (A)

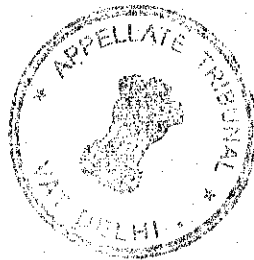

(Narinder Kumar)
Member (J)

Appeal No. 187-190/ATVAT/2020/1328-35

Dated: 11/10/21

Copy to:-

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| (1) VATO (Ward-93) | (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. | |
| (9) Commissioner (T&T) | |




REGISTRAR