

91

PS

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

Appeal No : 96/ATVAT/2018
Date of Judgment : 05/10/2021

M/s. Highway Motors & Traders,
2737 Ram Lal Chandok Marg,
Kashmeri Gate,
Delhi – 110006.

..... Appellant

V

Commissioner of Trade & Taxes, Delhi

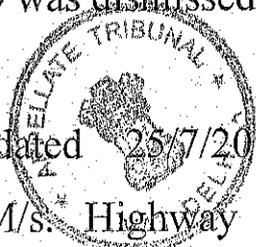
..... Respondent

Counsel representing the Appellant : Sh. A.K. Babbar.
Counsel representing the Revenue : Smt. Suman Kapoor.

JUDGMENT

1. Sh. Ajay Mahendru has filed this appeal claiming himself to be sole proprietor of M/s. Highway Motors & Traders, a Proprietorship concern. He is feeling aggrieved by order dated 9/4/2018 passed by learned Objection Hearing Authority (OHA), whereby objections filed by him against order dated 25/7/2017 passed by learned VATO was dismissed.

2. Learned VATO, vide order dated 25/7/2017, rejected cancellation of registration of M/s. Highway Motors and



Narinder Kumar
5/10/2021

Page 1 of 6
[Signature]

Appeal No : 96/ATVAT/2018

Traders having Tin NO. 07967191131. The reason for cancellation of registration of the dealer was "requisite documents for issuance of RC not submitted".

3. This cancellation order is stated to have been passed after issuance of show cause notice dated 23/5/2017.
4. Learned counsel for the appellant has submitted that all the requisite documents were submitted by Sh. Ajay Mahendru to the Competent Authority - VATO alongwith application for registration, submitted in form DVAT Act, 2004 (here-in-after referred to as the Act).

Copy of the documents which are stated to have been enclosed to the application – DVAT Act 2004, has been made available at page 18.

We have enquired from learned counsel for the Revenue if all these documents which find mentioned in the list available at page 18 were actually supplied by Sh. Ajay Mahendru, before the Competent Authority. But learned counsel is unable to reply in affirmation. She submits that such like application is received against receipt issued by the Department.

5. As noticed above, learned VATO issued show-cause notice and cancelled the registration on the ground that requisite documents for issuance of RC were not submitted. In this

situation, learned VATO was required to specify in the show cause notice as well as in the order as to which of the documents had not been submitted by the applicant. In absence of any specification in this regard, we find merit in the contention raised by learned counsel for the appellant that the notice dated 23/5/2017 is not a valid notice for want of specific reason calling upon rejection, and that for the same reason find that order dated 25/7/2017 cancelling the registration has not been passed for a valid reason.

6. While referring to the impugned order dated 9/4/2018 passed by learned OHA, learned counsel for the appellant has submitted that the learned OHA dismissed the objections while observing that dealer had failed to furnish satisfactory report as to why he required restoration of the registration as the dealer had negligible business in VAT regime. The contention is that this is not one of the grounds for cancellation of the registration as available u/s 22 of DVAT Act.

In view of provisions of section 22, it can safely be said that said ground is not one of the grounds for cancellation of registration.

7. In the impugned order, it stands recorded that it was reported to the learned OHA by the representative from Ward-17 that M/s. Highway Motors and Traders stood already registered at the

Handwritten signature and date: 5/7/10

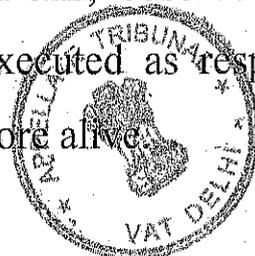
Handwritten signature and date: 5/7/10

same address vide Tin No. 07800251165 under the Proprietorship of Sh. Inder Mohan Mahendru, and that Civil Suit No. 689/10 was pending at Tis Hazari Court, Delhi. As observed by learned OHA, a clarification on the point of occupancy and status of the court case was sought from the objector, but no satisfactory reply was submitted.

8. During this appeal, appellant was allowed to place on record, copy of order dated 25/1/2018 passed in RCA No. 1214/16.

A perusal of the copy of order dated 25/1/2018 would reveal that the appellant herein filed RCA No. 1214/16 against his father Sh. Inder Mohan Mahendru, feeling aggrieved by judgment and decree dated 31/8/2013 passed in Civil Suit No. 698/10, two orders dated 24/3/2017 and 6/9/2011 passed in suit NO. 698/10. As per brief facts available in the said memorandum of appeal, father of the appellant had instituted suit against the present appellant i.e. son, so as to restrain him and others from interfering or taking possession of his business M/s. Highway Motors & Traders.

However, vide order dated 25/1/2018, the Court of learned Senior Civil Judge, Central district, Delhi, observed that the judgment and decree could not be executed as respondent – father of the appellant herein was no more alive.



23
5/10

23
5/10

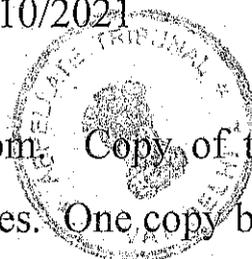
9. In the course of arguments, learned counsel for the appellant has placed on record copy of order dated 10/1/2017 passed by Competent Authority cancelling the registration of M/s. Highway Motors & Traders as against Tin No. 07800251165 w.e.f. 10/1/2017. This Tin No. is purported to have been got issued to father of the appellant.

When registration of the said proprietorship concern as a dealer vide said Tin number stood cancelled on 10/1/2017, the learned OHA did not take into consideration this fact and rather he considered the submission made by Vati of ward -17 that another firm already stood registered.

10. In the given facts and circumstances, we deem it a fit case to set-aside the impugned order dated 9/4/2018 and to remand the matter to learned OHA for decision afresh, after providing reasonable opportunity to the appellant.

11. Consequently, this appeal is disposed of, and while setting-aside the impugned order dated 9/4/2018, we remand the matter to learned OHA for decision afresh, after providing reasonable opportunity to the appellant. Appellant is hereby directed to appear before Learned SOHA on 28/10/2021

12. 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



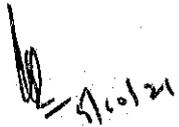
Handwritten signature and date: 5/7/10

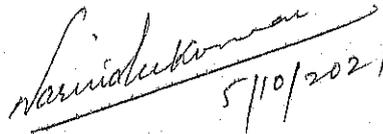
Handwritten signature and date: 5/7/10

concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 05/10/2021


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



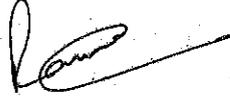
Appeal No. 96/ATVAT/2018/1088-95

Dated: 6/10/21

Copy to:-

- (1) VATO (Ward-17)
- (2) Second case file
- (3) Govt. Counsel
- (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.
- (6) Dealer
- (7) Guard File
- (8) AC(L&J)
- (9) Commissioner (T&T)




REGISTRAR