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

Appeal No : 399 & 400/ATVAT/2017

Date of Decision : October 29, 2021

M/s Alpana Novelties Mfg. Co.,
1531, Gali Kotana, Suiwalan,
Daryaganj,
New Delhi-1100 02.

.....Appellant

V

Commissioner of Trade & Taxes, Delhi

..... Respondent

Counsel representing the Appellant : Sh. Vineet Bhatia.

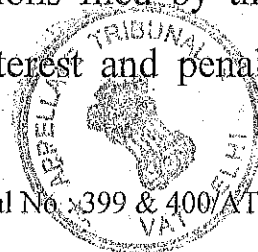
Counsel representing the Revenue : Sh. S.B. Jain.

JUDGMENT

1. Dealer – appellant, registered under Delhi Value Added Tax Act (here-in-after referred to as the Act), vide Tin No. 07600351961, has challenged order dated 12/12/2017 passed by learned Objection Hearing Authority (OHA), whereby notices of default assessment of tax, interest and penalty u/s 32 and 33 of DVAT Act issued by the Assessing Authority on 19/2/2013, was upheld and the objections filed by the dealer against the said assessment of tax, interest and penalty were

Narinder Kumar
28/10/2021

Y/K



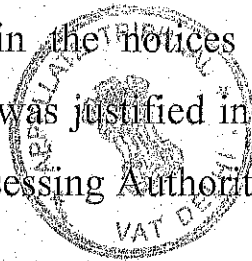
dismissed.

2. Notice u/s 32 of DVAT Act came to be issued by the Assessing Authority in view of survey report by Enforcement-I of Department of Trade & Taxes.
3. Survey report was to the effect that there was variation in stock and cash.
4. As per report, total stock variation was of Rs. 6,10,61,865/- (short) and variation in case was Rs. 48,445/- (short).
5. After providing opportunity of being heard, to the dealer – appellant, the Assessing Authority levied tax to the tune of Rs. 34,61,667/- and interest of Rs. 3,68,454/-. As such, dealer was directed to pay a sum of Rs. 38,30,121/-.
6. By way of separate notice u/s 33 of DVAT Act, Assessing Authority imposed penalty of Rs. 34,61,667/-u/s 86(15) of DVAT Act on the ground of preparation of false, misleading or deceptive records and accounts.
7. Feeling aggrieved by the said assessment, objections u/s 74(1) of DVAT Act were filed.
8. Learned OHA dismissed the objections.
9. Hence, these appeals.



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10. Arguments heard. File perused.
11. Learned OHA observed in the impugned order that the dealer did not comply with the condition regarding deposit of Rs. 3 lakhs, out of the disputed amount, as required u/s 74(1)(b) of DVAT Act, vide order dated 6/9/2013.
- In the course of arguments, learned counsel for the appellant has not disputed that the dealer did not comply with the said condition.
12. Even though the dealer did not comply with the above mentioned directions regarding deposit of Rs. 3.00 lakhs, learned OHA proceeded to dispose of the objections. However, appellant failed to produce requisite records despite sufficient opportunities, by issuing several notices during the period from 20/10/2013 to 15/3/2017. Ultimately, dealer was proceeded ex-parte on 10/10/17.
13. In the course of arguments, learned counsel for the appellant has not disputed that dealer – appellant failed to produce any record before learned OHA in support of the objections.
14. Since as per survey report, stock variation and cash variation were observed as find mentioned in the notices of default assessment, the Assessing Authority was justified in levying tax and interest as described therein. Assessing Authority was also



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justified in imposing penalty u/s 86(15) of the Act, because of false and misleading records and accounts prepared by the dealer.


15. When the dealer failed to produce any record or evidence in support of its objections against the assessment of tax, interest and penalty, learned OHA was justified in upholding the notices of default assessment of tax, interest and assessment of penalty, having regard to the findings recorded by the Assessing Authority in the said notices u/s 32 & 33 of the Act.

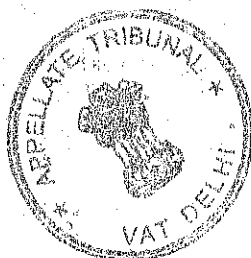
16. In view of the above discussion, these appeals deserve to be dismissed. Same are hereby dismissed.

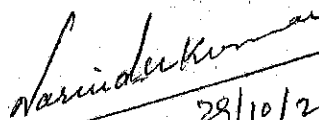
17. File be consigned to the record room. Copy of the order be supplied to both the parties as per rules. One copy be sent to ~~the concerned~~ authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 29/10/2021


(Rakesh Bali)
Member (A)



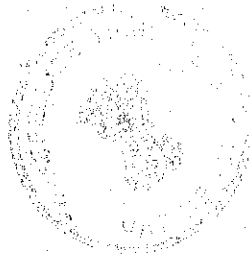

(Narinder Kumar)
Member (J)

Appeal No. 3994402/ATVAT/2017/1440-47

Dated: 2/11/21

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| (1) VATO (Ward- 9) | (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