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PS

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (Judicial) & Sh. Rakesh Bali, Member (Administrative)

Misc. application No. 06/ATVAT/21
Appeal No.195/ATVAT/2021

Date of Orders: 02-11-2021

M/s U-Like Fabrics,
M-217, Shastri Nagar,
Delhi-110052

.........Appellant

V.

Commissioner of Trade & Taxes, Delhi.

.......Respondent

Representing the Appellant	:	Sh. S.C. Garg, CA
Counsel representing the Revenue	:	Sh. M.L. Garg.

ORDER
(on Stay Application U/s 76(4) of DVAT Act)

1. By way of present application u/s 76(4) of DVAT Act, dealer – Proprietor, registered with Trade & Tax Department vide TIN No. 07850251962 has challenged notice u/s 32 of DVAT Act and prayed for entertainment of appeal No. 195/20.

2. The matter pertains to the assessment year 2014-15.

3. Appeal has been preferred against impugned order dated 13/11/19, whereby the dealer has been directed to pay a sum of Rs. 2,83,893/- by way of tax @5%, with interest, on the export sale worth Rs. 33,73,794/-.

2/11/21

4. In the impugned order, Ld. OHA observed that no document in support of factum of export was filed by the dealer. However, a perusal of para No. 5 of the ~~impugned order~~ objections before Ld. OHA reveals that therein the objector-dealer alleged to have made export out of India to Nepal, amounting to Rs.33,73,794/-. Copy of sales bill, confirmation from the importer and copy of bank statement as proof of payment were also enclosed.

5. Vide separate order of even date, additional evidence / documents of the application have been allowed to be taken on record.

6. On the point of pre-deposit for the purposes of admission of appeal, sub-section (4) of section 76 of the Act provides that no appeal against an assessment shall be entertained by the Appellate Tribunal, unless the appeal is accompanied by satisfactory proof of the payment of the amount in dispute, and any other amount assessed as due from the person.

As per first proviso to sub-section (4) of section 76, the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of some or all of the amount in dispute, on the appellant furnishing in the prescribed manner security for such amount, as it may direct.

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7. In the given facts and circumstances, in view of the provision of section 76(4), ~~and~~ section 5 2005 of CST Act 1956, appellant – applicant is called upon to deposit, by way of pre-deposit, 15% of the impugned demand of tax & interest, within 25 days from today, by way of condition for admission of this appeal.
8. The application is disposed of accordingly.
9. Counsel for appellant - applicant to apprise learned counsel for the Revenue regarding compliance of this order.

10. Be put up on 07/12/21 for report regarding compliance.

11. 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 : 02/11/21

(Rakesh Bali)
Member (A)

Narinder Kumar
2/11/2021

(Narinder Kumar)
Member (J)

Misc. No:. 06/ATVAT/21 / 1496-1503
in Appeal No. 195/ATVAT/21 /

Dated: 11/11/21

Copy to:-

(1)	VATO (Ward- 49)	(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)

APPELLATE TRIBUNAL VAT DELHI

REGISTRAR