

Sl. No. 123

PS

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

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

Appeal Nos : 282-285/ATVAT/2021

Date of Judgment : 02/12/2021

M/s. Noble Enterprises,
76, Basement,
Sant Nagar,
New Delhi – 110065.

..... Appellant

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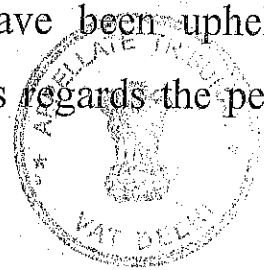
Commissioner of Trade & Taxes, Delhi

..... Respondent

Counsel representing the Appellant : Sh. A.K. Bhardwaj.
Counsel representing the Revenue : Sh. N.K. Gulati.

JUDGMENT

1. By way of present four appeals, dealer – appellant - a proprietorship concern, has challenged order dated 5/10/2021 passed by learned Objection Hearing Authority (OHA), whereby notices of assessment of penalty dated 1/8/2018 framed by the Assessing Authority u/s 33 read with section 86 (14) of Delhi Value Added Tax Act, (hereinafter called the Act), have been upheld and the objections filed by the dealer, as regards the penalty, have been dismissed.

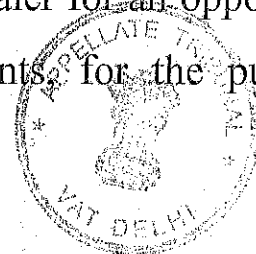


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2. Vide notice dated 1/8/2018, Assessing Authority – VATO (Ward-207) levied penalty of Rs. 50,000/- each, in respect of tax period Annual 2014-15, 2015-16, 2016-17 and 1st quarter of 2017-18. The penalty came to be imposed u/s 86 (14) of DVAT Act, on the ground that the dealer – appellant failed to comply with directions contained in notice dated 10/2/2017 for 20/2/2017 and reminder dated 18/7/2017 for 28/7/2017 u/s 59(2) of the Act for production of documents / records.
3. Feeling dissatisfied with the notices of assessment of penalty, the dealer filed objections before learned OHA. Vide impugned order dated 8/10/2021, learned OHA – Spl. Commissioner upheld the notices of assessment of penalty. Hence these appeals.
4. The only submission put forth by learned counsel for the dealer – appellant is for a lenient view on the quantum of penalty as while disposing of four objections filed by the dealer against notices of default assessment of tax and interest, for the same quarters i.e. Annual 2014-15, 2015-16, 2016-17 and 1st quarter of 2017-18, learned OHA has remanded the matter to the Assessing Authority allowing the submission on behalf of the dealer for an opportunity to produce all the relevant documents for the purpose of assessment.



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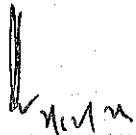
5. Learned counsel for the Revenue has not disputed that the matters stand remanded by learned OHA to the Assessing Authority as regards notices of default assessment of tax and interest in respect of the same tax period.
6. As per the impugned order, learned OHA has remanded the matter to the Assessing Authority keeping in view that several important factual aspects were required to be examined and also that claim of the dealer could be examined and verified from the records.
7. Since the learned OHA has already remanded the matter to the Assessing Authority on the point of levy of tax and interest for the same quarters and learned counsel for the appellant has submitted that all the requisite documents were produced before learned OHA and shall also be produced before the Assessing Authority, we deem it a fit case for reduction in the amount of penalty from Rs. 50,000/- to Rs. 5,000/- in respect of each tax period i.e. Annual 2014-15, 2015-16, 2016-17 and 1st quarter of 2017-18. Consequently, all these appeals are disposed of while reducing the amount of the penalty from Rs. 2.00 lakh to Rs. 20,000/- only.
8. It may be mentioned here that in compliance with the orders dated 8/11/2021 passed on application u/s 76(4) of DVAT Act, dealer has already deposited a sum of Rs. 20,000/-. As

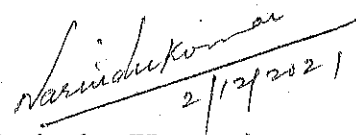
submitted by the learned counsel for the appellant, the said amount shall be adjusted towards the amount of penalty of Rs. 20,000/- as it stands reduced.

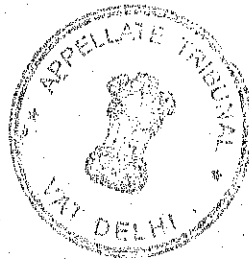
9. File be consigned to the record room. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 2/12/2021


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



Appeal No. 282-285/DVAT/21/1544-51

Dated: 6/12/21

Copy to:-

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| (1) VATO (Ward-207) | (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