

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

Appeal No. 302/ATVAT/21
Date of decision :17/12/2021

M/s. Enhanced Wap Systems (India Pvt. Ltd.),
B-140, 1st Floor, Phase-I,
Okhla Industrial Area,
Delhi – 110 020.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. Ashok Jain
Counsel representing the Revenue : Sh. P.Tara proxy for Sh.
M.L.Garg,

JUDGMENT

1. By way of present appeal, dealer has challenged order dated 08/12/21 passed by Ld. OHA (Ward – 114) (Special Zone), whereby the dealer was directed to pay/deposit a sum of Rs. 5,78,898/- towards tax and interest, due to the reason that the dealer failed to produce C-Forms of the value of Rs. 15,000/- and F-Forms of the value of Rs. 17,38,790/- and Rs. 18,07,319/-.

2. Objections were filed before Ld. OHA by the dealer, feeling aggrieved by the Notice of Default Assessment of tax and interest dated 20/03/21 issued by the Assessing Authority under CST Act.

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3. The matter pertains to the tax period 2nd and 3rd quarter 2015, even though, initially the assessment was framed in respect of all the four quarters of the year 2015.

4. Arguments heard. File perused.

5. Ld. Counsel for the dealer-appellant submits that after the disposal of the objections u/s. 76 of DVAT Act, the dealer has received Form 'F' with annexure 'A' containing details of invoices pertaining to the 3rd quarter, and the same is of the value of Rs. 31,35,413/-.

Ld. Counsel submits that the said F Forms dated 12/11/21 having not been earlier received by the dealer, it is entitled to exemption in view of decision in **M/s. Kirloskar Electric Co. Ltd. v. Commissioner Sales Tax**, 1991 Vol. 83 of Sales Tax Cases, 485.

6. Undisputedly, this appeal was entertained vide order dated 03/12/21 without calling upon the appellant-dealer to deposit any amount by way of pre-deposit, the reason being that the dealer-appellant deposited a sum of Rs.1,00,685/- towards tax and interest, after the passing of the impugned order.

7. In other words, dealer has deposited a sum of Rs. 1,00,685/- towards tax and interest, for the tax period 3rd quarter 2015, and as regards the value of the F Form.

8. Keeping in view that the F Form, copy whereof has been filed with this appeal, is stated to have been received subsequent to the disposal of the objections

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before Ld. OHA, ^{and} the well settled law that State is to levy legitimate tax, [✓] this appeal is disposed of with the directions to the Ld. Assessing Authority (Ward -114) (Special Zone) for assessment afresh, taking into consideration the said F-Form dated 12/11/21, subject to its verification/ authenticity, as per rules, and on "sufficient cause" being shown by the dealer as regards steps taken by it to obtain the said F Form from time to time.

9. Accordingly, parties to appear before Ld. Assessing Authority on 28/12/2021.

10. 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.

Dated: 17th December, 2021



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17/12/2021
(Narinder Kumar)
Member (Judicial)

Appeal No. 302/DVAT(21/1664-71

Dated: 20/12/21

Copy to:-

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|--|----------------|
| (1) VATO (Ward-114) | (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

