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

Appeal No. 115-117/ATVAT/2019

Date of Judgment: 23/12/2021

M/s. Kundan Rice Mills Ltd.
D-16 & 17, Central Market,
Prashant vihar,
New Delhi.

..... 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. The above captioned three appeals have been filed by the dealer – company which is registered with Delhi Value Added Tax Department (DVAT) vide Tin No. 07200191549.
2. Dealer – appellant has challenged three impugned orders dated 20/03/2020, passed by VATO (ward No. 63) - learned Objection Hearing Authority (OHA), under Central Sales Tax Act (CST), for the tax period – 1st, 2nd & 3rd quarter of


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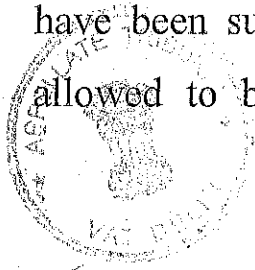
2015-16, whereby exemption was allowed to the dealer – appellant in respect of the statutory forms produced during hearing on objections and tax has been levied with interest, in respect of the remaining statutory forms not produced even during hearing on objections.

3. Initially assessments were framed by the Assessing Authority - VATO (Ward 63), vide orders dated 16/04/2018, directing the assessee - appellant to pay a sum of Rs. 11,99,285/-, for the 1st qtr. of 2015; a sum of Rs. 5,59,648/-, for the 2nd qtr.; a sum of Rs. 3,45,637/-, for the 3rd qtr., towards additional tax and interest, under CST Act.
4. Feeling dissatisfied with the orders passed by learned OHA, dealer has filed these three appeals.
5. Arguments heard. File perused.
6. Learned counsel for the appellant has submitted that certain C & F forms have been received by the dealer subsequent to the passing of the impugned order and the same have been taken on record today vide order passed by the Tribunal and further that the dealer shall deposit cost of Rs. 10,000/- with the Revenue in compliance with the said order. The contention is that the matter be remanded to the Assessing


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Authority for fresh assessment taking into consideration these C & F forms subsequently received.

7. In the memorandum of appeal, dealer has alleged that learned SOHA, did not allow the company a reasonable and sufficient opportunity to furnish C-forms worth Rs. 3,53,51,317/- and F-forms worth Rs. 29,68,320/-, which pertain to all the above mentioned 3 quarters of the year 2015-16, and as such the dealer was prevented from producing the remaining statutory forms during objection.
8. It may be mentioned here that during pendency of these appeals, counsel for appellant submitted that the entire amount of the disputed amount has already been adjusted / deducted by the Revenue Department from the refund order issued for the year 2015-16. Learned counsel for the revenue did not dispute the said submission put forth by learned counsel for the appellant in the application. With this submission, the application u/s 76(4) of DVAT Act was not pressed.
9. Vide separate of even date, ^(C, F) ~~the~~ certain C &/Forms said to have been subsequently received by the dealer, have been ^h ^w allowed to be taken on record subject to cost and with


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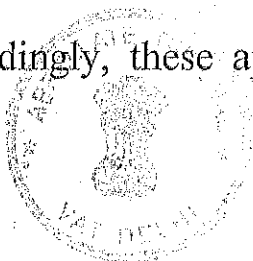
directions contained therein.

10. In the case of **M/s Kirloskar Electric Co. Ltd. V/s. Commissioner of Sales Tax**, 1991 Vol. 83 of Sales Tax Cases, 485, decided by Hon'ble High Court of Delhi, Hon'ble Judge observed in the manner as :-

“The State is entitled to the tax which is legitimately due to it. When the Sales Tax Act provides that a deduction can be claimed in respect of sales affected in favour of registered dealers than the deduction should be allowed. The proof in support of claiming the deduction is the production of the S.T. 1 forms. Even though the S.T. 1 forms were produced after the assessment had been completed. It will not be fair or just not to allow the legitimate deduction.....”

11. In the light of the judgment of our own Hon'ble High Court in M/s Kirloskar Electric Company Ltd., appellant herein deserves another opportunity to submit C forms, which find mentioned in list marked as exhibit -C1, and F-forms available from page 6 to 9 lying annexed to the subsequent application filed on 2/12/2021 and collectively marked as exhibit C-2.

12. Accordingly, these appeals are disposed of so as to allow



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another opportunity to the appellant to present before the Assessing Authority, statutory forms, copies whereof have been filed before this Tribunal.

The Assessing Authority shall subject these statutory forms to verification (including ruling out of any possibility of duplicacy), before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law. Appellant is hereby directed to appear before the Assessing Authority on 10/01/2022.

13. Copy of the order be supplied to both the parties as per rules. ^{with copy of EXC 1 & 2}
One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 23/12/2021



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(Narinder Kumar)
Member (J)

Appeal No. 115-117/ATVAT/2019/1704-11

Dated: 24/12/21

Copy to:-

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|--|----------------|
| (1) VATO (Ward-63) | (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