SNO-165

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

Appeal No. : 336/ATVAT/2021
Date of Judgment: January 25, 2022

M/s. Bhagwan Dass Chhabra,
157 Azad Market, Delhi-110006. .....Appellant

v.

Commissioner of Trade & Taxes, Delhi .....Respondent

Counsel representing the Appellant : Sh. Simit Aggarwal
Counsel representing the Respondent : None

JUDGMENT

1. By way of present appeal, dealer having TIN No. 07740046722, registered with the Department of Trade and Taxes, Delhi has challenged order dated 29/10/2021 passed by learned OHA – Additional Commissioner.

2. Vide impugned order, learned OHA has disposed of objections filed by the dealer against assessment of penalty of Rs. 50,000/- imposed u/s 33 of DVAT Act, 2004, pertaining to the tax period – annual 2017-2018 and thereby reduced the quantum of penalty to Rs. 10,000/- only.

3. Arguments heard. File perused.

25/1/2022

4. Penalty u/s 33 of DVAT Act came to be imposed by the Assessing Authority vide notice of assessment dated 07/06/2018 due to the reason that despite service of notice u/s 59(2) of DVAT Act upon the dealer, no one appeared or furnished any information. The penalty came to be imposed for violation of provision of Section 86(14) of the Act.

5. Section 86(14) provides for penalty where any person fails to comply with the requirement under sub-section (2) or sub-section (3) of Section 59 of the Act.

6. Section 59(2) of the Act empowers the Commissioner to require any dealer to produce before him such records, books of accounts, registers and other documents, to answer such questions, and prepare and furnish such additional information, relating to his activities or to the activities of any other person, as the Commissioner may deem necessary.

7. In the course of arguments, learned counsel for the dealer-appellant admits that notice u/s 59(2) of the Act was served upon the dealer by the Assessing Authority – AVATO (Ward 38), but his submission is that the dealer furnished reply to the said notice on the portal of the Department thereby informing that Statutory Forms had not yet been received.

However, as per notice u/s 59(2) of the Act the dealer was required to appear and produce before the concerned officer of Ward 38 relevant records as find mention therein. Copy of the notice u/s 59(2) of the Act is available at page 31 of the appeal.

Admittedly, none of these 13 documents was produced by the dealer – appellant before the concerned officer – AVATO (Ward 38). Therefore, simply because the dealer is said to have replied the said notice on the portal of the Department, did not come to the rescue of the dealer. However, still learned OHA has taken a lenient view and reduced the quantum of penalty to Rs. 10,000/-.

8. Keeping in view the violation made by the dealer – appellant and fact that learned OHA has already reduced the amount of penalty from Rs. 50,000/- to Rs. 10,000/-, we do not find any merit in the contention of the learned counsel for the dealer to further reduce the amount of penalty. As a result, appeal is hereby dismissed.

9. 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 : 25/1/2022

(Rakesh Bali)
Member (A)

(Narinder Kumar)
Member (J)

Appeal No. 336/ATVAT/21/1904-11 Dated: 28/1/22

Copy to:-

(1) VATO (Ward-38)
(2) Second case file
(3) Govt. Counsel
(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.
(6) Dealer
(7) Guard File
(8) AC(L&J)
(9) Commissioner (T&T)

REGISTRAR