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

Review No : 325 & 326/ATVAT/2022
In Appeal No. 747 & 748/ATVAT/2009
Date of Order : 24/2/2022

M/s. Bharat Petroleum Corp. Ltd.,
ECE House, 28-A,
Kasturba Gandhi Marg,
New Delhi.

..... Applicant

V

Commissioner of Trade & Taxes, Delhi

..... Respondent

Counsel representing the Appellant : Sh. A.K. Bhardwaj.
Counsel representing the Revenue : Sh. C.M. Sharma.

ORDER

1. This common order is to dispose of the above captioned two Review Applications filed by the dealer, who was appellant in appeals No. 746 to 748/2009. Review application No. 325 pertains to appeal No. 747/2009. Review application No. 326 pertains to appeal No. 748.
2. On 7/12/2021, two appeals No. 747 & 748 were dismissed by this Tribunal as not pressed by observing in para No. 5

Narinder Kumar
24/2/22

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of the common judgment that no submission was put forth by learned counsel for the appellant to press the same.

3. In both the review applications, the common ground put forth by learned counsel for the applicant – appellant is that the issue of reconciliation was not adjudicated.
4. Arguments heard. File perused.
5. In the course of arguments, learned counsel for the appellant – applicant ^{submits and} earnestly/ admits that at the time of final arguments in the above ^h appeals, the ground/objection as regards reconciliation of ^{accounts} ~~taxes~~ could not be agitated by him. Learned counsel submits that this ~~issued~~ ^{issue} could not be raised inadvertently.

Learned counsel has referred to Regulation 24 of DVAT (Appellate Tribunal) Regulations, 2005, wherein words “for any other sufficient reason” find ~~mentioned~~ ^{mentioned} as one of the ground^s for review of the order. Learned counsel submits that his inadvertent mistake is covered by the said expression for any “other sufficient reason”.

In support of his submission, learned counsel has referred to the order dated 1/1/2006 passed by the Hon'ble High Court in W.P.(C) 18551/2005, filed by the appellant – petitioner

against Commissioner of Sales Tax, Delhi, wherein the Hon'ble High Court observed that in case reconciliation of accounts does eventually assume importance and is considered to be necessary for proper adjudication, it shall be open to the Appellate Authority to issue appropriate directions in accordance with law.

Learned counsel has also referred to copy of petition for reconciliation of accounts, submitted before this Tribunal, and pleaded that in view of the said petition and the order dated 1/3/2006 passed by Hon'ble High Court, the point regarding the issue of reconciliation of accounts be adjudicated after restoration of the two appeals. In support of his submission, learned counsel has referred to decision in **Chajju Ram v. Neki**, (1922) 24 BOMLR 1238 passed by Hon'ble Bombay High Court on 27/2/1922 and **Moran Mar Basselios Catholicos v. The Most Rev. Mar Poulouse**, 1954 AIR 526 by Hon'ble Apex Court on 21/5/1954.

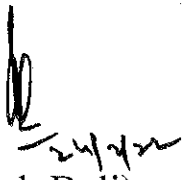
6. We find that in the memorandum of appeals, one of the grounds of appeal was that when the department had taxed the goods in the hands of the appellant, then the same could not be taxed again in the hands of the purchasing dealer, being first point goods and the same amounted to double taxation.

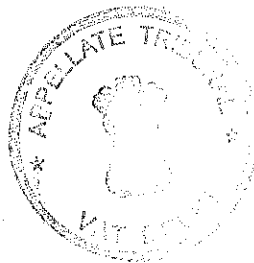
Furthermore, copy of the petition for reconciliation of accounts was also placed on record. We have gone through the observations made by the Hon'ble High Court while disposing of W.P.(C) 18551/2005.

7. In view of the above averment in the memorandum of appeal, filing of the petition for reconciliation and the observations made by the Hon'ble High Court, we find that learned counsel for the appellant, while arguing the appeals on merits, could not put forth his submissions on this point inadvertently. This being a sufficient ground, in the peculiar facts and circumstances of these matters, the applications deserve to be allowed. Same are allowed. Both the appeals are restored to their original numbers for adjudication only on the aforesaid issue.
8. 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 : 24/2/2022


(Rakesh Bali)
Member (A)




(Narinder Kumar)
Member (J)

Review No. 325 & 326 / AT VAT / 22
in Appeal No. 747 & 748 / AT VAT / 2009 / 2072-79

Dated: 28/2/22

Copy to:-

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| (1) VATO (Ward-28) | (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. | |


REGISTRAR

