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BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

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

Appeal No- 747-748/ATVAT/2009

Date of decision: 24/2/2022

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

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. A. K. Bhardwaj

Counsel representing the Revenue : Sh. C. M. Sharma

Judgment

1. The above caption<sup>ed</sup> two appeals have been restored to their original No., vide separate order of even date.

Ld. Counsel for the parties have argued the appeals on merits today itself, on the issue of reconciliation of accounts, which could not be adjudicated earlier while disposing of the said two appeals vide common judgment dated 7.12.2021, the reason being that Ld. Counsel for the appellant inadvertently could not put forth any submission on this issue at the time he argued the appeals on merits.

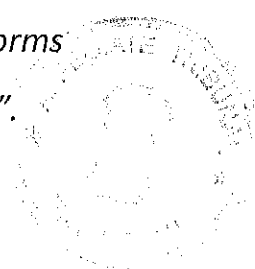
*Narinder Kumar*  
24/2/22

*Rakesh Bali*

2. By way of present two appeals, appellant has challenged order dated 13.10.2009 passed by Ld. Addl. Commissioner-II, whereby the first appeals filed by the dealer u/s 43 of Delhi Sales Tax Act, in respect of Tax period 1.4.2003-31.3.2004 and for the period from 1.4.2004-31.3.2005, were dismissed by observing in the manner as :

*"I have heard the contentions of the dealer and also gone through the records of the case. It has been seen that for the year 2002-03 the appellant had submitted statutory form. However out of these, statutory forms given to the appellant by the purchasing dealer i.e. M/s Jagan Nath Dudadhar were rejected on the grounds that these were issued by the department for the year 2001-02, but the purchasing dealer used them for the year 2002-03. For the remaining years i.e. 2—3-04 and 2004-05, the appellant has not submitted statutory forms from the said purchasing dealer.*

*During the course of hearing of these appeals, the Ld. Counsel for the appellant has not submitted any evidence of receiving of pending statutory forms. The contention that the appellant be given benefit of tax paid by the purchasing dealer or deduction allowed to the purchasing dealer on the basis of forms submitted by him, also does not seem convincing".*



*24/2*

*24/4/2*

3. One of the contentions advanced by Ld. Counsel for the appellant before Ld. OHA was that the dealer was entitled to benefit of tax paid by the purchasing dealer or deductions allowed to the said purchasing dealer on the basis of forms submitted by him.

As noticed above, this contention was rejected Ld. First AA on the ground that the same appeared to be not convincing.

4. Ld. Counsel for the Dealer-Appellant has advanced the same contention and submitted that when the department taxed the goods in the hands of the appellant, same could not be taxed again in the hands of the purchasing dealer, same being first point goods and also because the same amounted to double taxation, which is not permissible under the law. The contention is that the amounts recovered by the revenue from the dealer-appellant on the sales to the purchasing dealer, are required to be reconciled and adjusted towards the tax recovered from the appellant.

Ld. Counsel for the revenue <sup>has</sup> submitted that no material was produced by the dealer-appellant before Ld. First Appellate Authority to show if any amount was charged by the revenue from the purchasing dealer in respect of the same goods or to show that it is a case of double taxation. Ld. Counsel <sup>has</sup> further submitted that the dealer-appellant has no legal right to raise

this issue for reconciliation or for non-issuance of any statutory forms by the revenue to the purchasing dealer or to agitate this issue on behalf of the purchasing dealer, whose request for issuance of statutory forms is stated to have been rejected.

5. The dealer-appellant did not produce before the Ld. First Appellate Authority any material to suggest that it was a case of double taxation. Even in these appeals, dealer-appellant has not produced on record any material to suggest that it is a case of double taxation in respect of the same goods.

When there is no such material available on record, we do not find any merit in the objection / ground raised by the appellant or any reason for directions to the revenue for reconciliation of the accounts, on the aforesaid ground.

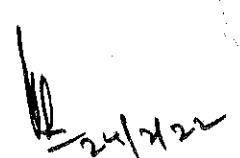
6. As a result both these appeals 747 & 748 deserve to be dismissed. Accordingly, the same are hereby dismissed.


7. 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)

Appeal No. 747 & 748/DVAT/2009/2080-87

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. |                |
| (9) Commissioner (T&T)   |                |



**REGISTRAR**

