

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

Appeal No. 278-281/ATVAT/2021

Date of Judgment: 7/3/2022

M/s. Ambica Electricals,
15/A/44, Saraswati Marg,
Karol Bagh,
New Delhi – 110 005.

..... Appellant

V

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. Jagdish Lal Grover.
Counsel representing the Revenue : Sh. S.B. Jain

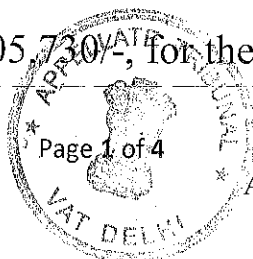
JUDGMENT

1. The above captioned four appeals have been filed challenging order dated 27/8/2021 passed by VATO (ward No. 109 Special Zone) - learned Objection Hearing Authority (OHA), under Central Sales Tax Act (CST). The appeals pertain to all the four quarters of the year 2015.

2. Assessing Authority - Ld. VATO (Ward 109) vide orders dated 03/12/2019 directed the appellant to pay a sum of Rs. 15,05,339/-, for the 1st qtr. of 2015-16 ; to pay a sum of Rs. 19,87,576/-, for the 2nd qtr.; to pay a sum of Rs. 11,05,730/-, for the 3rd qtr.; and to pay a sum

Narinder Kumar
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Rakesh Bali
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of Rs. 12,60,645/-, for the 4th qtr., towards additional tax and interest, under CST Act.

3. Vide order dated 27/8/2021, Ld. OHA reduced the demand in respect of all the four quarters, keeping in view that some of the C & F forms were produced before him during objections, and also taking into consideration the missing statutory Forms. Even then the dealer is feeling aggrieved and has come up in appeals.

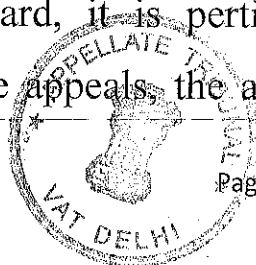
4. Arguments heard. File perused.

5. Learned counsel for the appellant submits that subsequent to the disposal of the objections by learned OHA, appellant received certain statutory forms, copies of which the appellant has placed on record, and that the same be allowed to be considered by the Assessing Authority.

Learned counsel for the appellant has submitted that the statutory forms filed in these appeals could not be earlier submitted by the appellant due to sufficient cause.

6. Learned counsel for Revenue has gone through the copies of the statutory forms, submitted by the appellant before this Tribunal, and submitted that these pertain to the tax periods, to which these appeals relate.

In this regard, it is pertinent to mention here that during pendency of these appeals, the appellant is stated to have deposited



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tax and interest, as per the disputed demand in respect of the statutory forms which have not so far been produced.

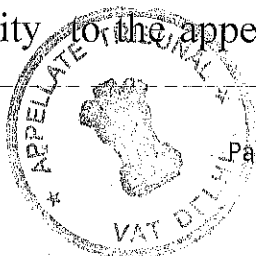
7. Copies of the Statutory Forms now filed by the dealer – appellant are available from page 1-18 (Ex. C-1 to C-18) lying annexed to application Ex. C-19.

8. 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.....”

9. In the light of the judgment of Hon'ble Delhi High Court in M/s Kirloskar Electric Company Ltd., appellant herein deserves another opportunity to submit ^{statutory} forms, referred to above.

Accordingly, these appeals are disposed of so as to allow another opportunity to the appellant to present before the ~~Assessing~~ ⁱⁿ



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obj. objection

/Hearing Authority, statutory forms, copies whereof have been filed before this Tribunal. The OHA shall subject these forms to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said statutory forms, now filed before this Tribunal, 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 Objection Hearing Authority on 31/03/2022.

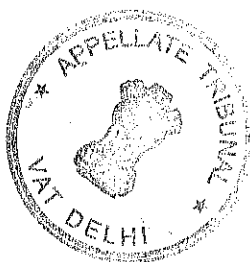
10. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 7/3/2022


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)

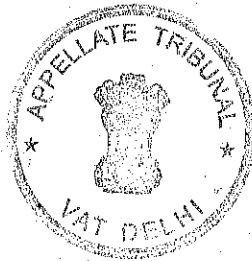


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Dated: 9/3/22

Copy to:-

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| (1) VATO (Ward-109) | (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