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

Misc. Application No. : 227/21

In Appeal No. : 211/STT/04

Date of Order: 7/3/2022

M/s. Gupta Sons,

.....Appellant – Non Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent - Applicant

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

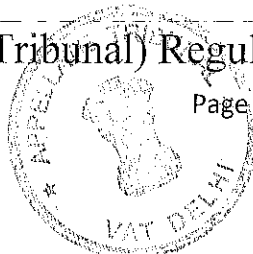
Counsel representing the Non Applicant : Sh. S.K. Verma

ORDER

1. This order is to dispose of Application No. 227/21 filed on behalf of the Revenue for rectification of error which is stated to have crept in order dated 12/3/2020 passed by this Appellate Tribunal.
2. In the application, it has been alleged that actually the application was restored and not the appeal, and as such error needs to be rectified.
3. A perusal of order dated 12/03/2020 would reveal that Misc. Application No. 02 filed under Regulation 17 of DVAT (Appellate Tribunal) Regulation, 2005 was disposed of.

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In the order, it finds mentioned that the application was for readmission of appeal which came to be dismissed in the default of appearance of counsel for the appellant on 17/12/2019.


4. Misc. Application No. 02 was presented on 02/01/2020 with prayer for restoration of appeal.
5. It is true that in the order dated 17/12/2019, it finds mention that the case was called several times since morning, but none appeared on behalf of the appellant, and that the appeal was dismissed in default of appearance of the appellant and its counsel. However, a perusal of record would reveal that vide order dated 20/01/2006, common judgment was passed in Appeal No. 211/2004 and other Appeals No. 78, 96, 98, 99, 100, 101, 168, 202, 225 and 231 of 2004. Further, as per the said common judgment dissenting view was given by Sh. Bharat Bhushan, learned Member, while delivering the judgment. Subsequent thereto appellant-applicant filed application No. 40/2006 for review of the said common judgment dated 20/01/2006. Said application was dismissed vide order dated 09/04/2014.
6. Thereafter, Sh. Sushil Kumar Verma, counsel for the appellant presented application No. M-52/14 dated 21/07/2014, which came to be dismissed in default of appearance. However, in the order in place of word 'application', word 'appeal' came

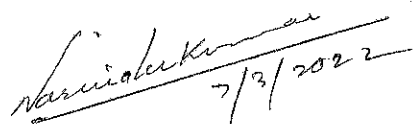
to be typed, reflecting as if the appeals were dismissed in default, whereas actually only the aforesaid application dated 21/07/2014 was pending and same came to be dismissed in default of appearance.

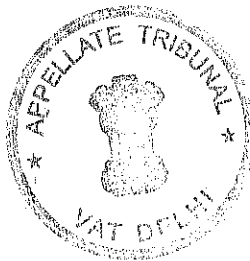
7. Accordingly, while the application filed by the appellant for restoration was allowed vide order dated 12/3/2020, instead of restoration of application, word 'appeal' crept in the order. The error needs to be rectified. Accordingly the prayer in this application is allowed.
8. However, it may be mentioned here that as rightly submitted by learned counsel for the applicant, in view of the dissenting judgment by learned Member (Judicial), the judgment/remains unenforceable till date. ^{d/d. 20.1.2006}

Announced in open Court.

Date : 7/3/2022


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



Misc. App. No:- 287/21
in Appeal No. 211/STT/04 / 2928-35

Dated: 9/3/22

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| (1) VATO (Ward-16) | (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