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

Misc. Application No. : 302/21
In Appeal No. : 108-115/ATVAT/13
Date of Order: 15/03/2022

M/s. Pawan Hans Helicopters Ltd.,
C-14, Sector-1, Noida-201301 (U.P.)

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

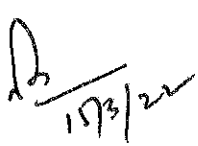
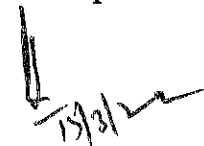
C.A. representing the Appellant-Applicant : Sh. A. K. Batra
Counsel representing the Revenue : Sh. P. Tara

Order

1. This order is to dispose of Misc. Application No. 302/21 filed on behalf of the appellant, with prayer for impleadment of Service Tax Department, as a party to the present proceedings in these Appeals No. 108-115/13.

As alleged in the application, Service Tax and VAT are mutually exclusive, and as such both the taxes cannot be levied on same transaction, in view of decision by Hon'ble Supreme Court in **Imagic Creative Pvt. Ltd. v. Commissioner of Commercial Taxes** [2008 (9) STR 337 (SC)].

As further averred in the application, appellant-applicant has already discharged liability towards Service Tax on the entire consideration received for supply on tangible goods. Therefore, Service Tax Department is a proper and a necessary party whose

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impleadment would help in better understanding of the activities carried out by the appellant-applicant.

2. As per case of the appellant-applicant, the activity of the appellant in supplying of charter helicopters to its various clients across the country is squarely covered as taxable service as per clause (zzzzj) of sub-section 105 of Section 65 of the Finance Act, 1994.

3. Present appeals have been filed by the appellant against order dated 07/02/2013 passed by learned Special Commissioner-OHA whereby its 8 objections, pertaining to tax period 2006-07, 2007-08, 2008-09 and 2009-10 have been rejected and consequently orders of default assessment of tax, interest and penalty issue by VATO of Special Zone have been upheld.

4. Reply filed. Copy supplied.

5. Arguments heard on ^{this} Application No. 302/21 filed by the appellant. Learned counsel for the applicant submits that the impleadment has been sought only for proper assistance of this Appellate Tribunal for adjudication of the matter, keeping in view that point of Service Tax is also involved.

6. Learned counsel for the revenue has opposed the application by observing that this Appellate Tribunal has no jurisdiction over the other Departments like Service Tax, Income Tax, and Custom and also because there is no precedent of impleadment of any other department in such-like matters.

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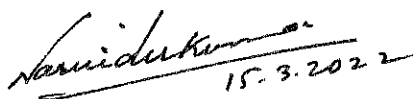
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7. Having gone through the orders passed by the revenue authorities and the averments put forth by the applicant in the memorandum of appeal, we find that impleadment of Service Tax Department as a party is not at all required. The application is, therefore, dismissed.

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: 15/03/2022


(Narinder Kumar)
Member (Judicial)


(Rakesh Bali)
Member (Administration)

Misc. App. No. 302/21
in Appeal No. 108-115/ATVAT/13 | 3040-47

Dated: 17/3/22

Copy to:-

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