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BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

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

Stay application Nos.: 272-275/ATVAT/19

Appeal No.: 317-320/ATVAT/19

Date of Order: 25/03/2022

M/s. Mundhra Chemicals Pvt. Ltd.

16/23/24 Village Pitampura,

Opp. Agrasen Bhawan, New Delhi – 110 034

.....Appellant

v.

Commissioner of Trade & taxes, Delhi

.....Respondent

Counsel representing the Appellant

: Sh. R. K. Aggarwal

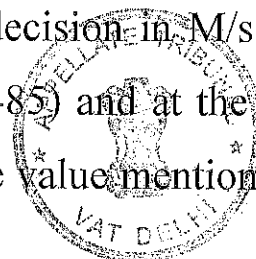
Counsel representing the Respondent

: Sh. C. M. Sharma

ORDER

On Stay Application u/s 76(4) of DVAT Act

1. This order is to dispose of four applications u/s. 76(4) of DVAT Act filed by the dealer, registered with Department of Trade & Tax vide TIN No.07530376298.
2. The appellant has filed four above captioned appeals challenging orders dated 12/10/21 passed by the Ld. Special OHA. The matter pertains to all the 4 quarters of 2016.
3. Vide impugned order, Ld. Spl. OHA-AVATO allowed exemption to the dealer, in view of decision in M/s. Kirloshar Electric Co. v. CST, Delhi (83 STC 485) and at the same time levied tax as regards the C-form of the value mentioned therein,



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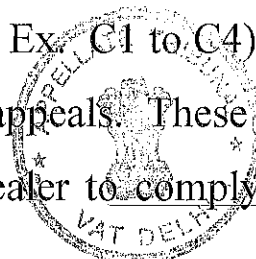
which were not produced even before learned OHA. The following table depicts the demand raised on account of non-furnishing of 'C' Forms:

| Period | Additional Tax & Interest | Missing C-Forms |
|-----------------|---------------------------|-----------------|
| First Qtr.2016 | 719225/- | 703989/- |
| Second Qtr.2016 | 564926/- | 565515/- |
| Third Qtr.2016 | 312817/- | 320338/- |
| Fourth Qtr.2016 | 305622/- | 320248/- |

4. Arguments heard. File Perused.
5. Today, learned counsel for the appellant has filed copies of 9 'C' Forms while submitting that the same could not be produced before Assessing Authority or before learned OHA, as same has been received subsequent to the passing of the impugned order by the learned OHA.

The lists of the 'C' Forms subsequently received are Ex. C1 to C4.

6. It appears that the appellant has subsequently received the remaining statutory forms with annexures. The triable issue in these appeals is as to whether these statutory forms could not be submitted by the appellant earlier due to sufficient cause.
7. In the given facts and circumstances and taking into consideration the above aforesaid triable issue, these appeals are admitted subject to deposit of 10% of the demand (excluding the value of the 'C' Forms shown list Ex. C1 to C4), by way of pre-condition for admission of these appeals. These applications are disposed of accordingly. The dealer to comply with the order

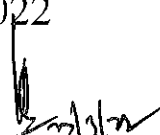


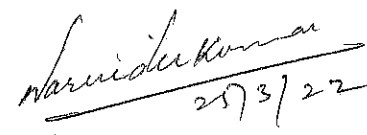
within 25 days. Applicant-dealer to apprise learned counsel for the Revenue regarding compliance with this order within time so that on the next date i.e. on 05/05/2022 the appeals are taken up for final hearing.

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 web-site.

Announced in Open Court.

Date: 25/03/2022


(Rakesh Bali)
Member (Administrative)


(Narinder Kumar)
Member (Judicial)

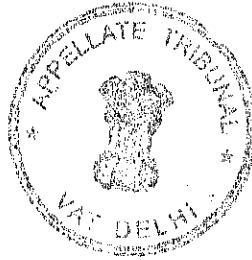


Stay App. No! - 272-275/ATVAT/19/3128-35
in Appeal No. - 317-320/ATVAT/19

Dated: 28/3/22

Copy to:-

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|---|----------------|
| (1) VATO (Ward-64) | (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