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BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL, DELHI
Sh. Narinder Kumar, Member (J) and Sh. Rakesh Bali, Member (A)

Appeal No. 186/ATVAT/2020²⁰²¹ ✓

Date of Judgment: 4/4/2022

M/s. STP Limited,
707, 7th Floor,
Chiranjiv Tower 43,
Nehru Place,
New Delhi – 110 019.

.... Appellant

v.

Commissioner of Trade & Taxes, Delhi.Respondent

Counsel for the Appellant : Sh. Anil Verma
Counsel for the Revenue : Sh. P.Tara.

JUDGMENT

1. This appeal has been filed challenging order dated 24/9/2020 passed by learned Objection Hearing Authority (OHA), under Central Sales Tax Act (CST). The appeal pertains to all the four quarters of the year 2013.
2. Vide impugned order, learned OHA allowed certain exemptions to the dealer – objector on production of some statutory forms, but at the same time upheld the assessment

Narinder Kumar
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of tax and interest, as made by learned Assessing Authority in respect of the remaining statutory forms never produced before the authorities. Even then the dealer is feeling aggrieved and has come up in appeal.

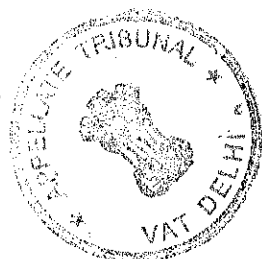
3. Learned Assessing Authority - VATO (Ward 89) vide orders dated 04/01/2018 had directed the appellant to pay a sum of Rs. 8,23,755/-, for the 1st qtr. of 2013 ; to pay a sum of Rs. 4,56,142/-, for the 2nd qtr.; to pay a sum of Rs. 5,80,823/-, for the 3rd qtr.; and to pay a sum of Rs. 10,27,249/-, for the 4th qtr., towards additional tax and interest, under CST Act.
4. Arguments heard. File perused.
5. The only ground put forth in arguments is that efforts were being made by the dealer to collect remaining statutory forms from the other dealers and the dealer has placed on record copies of documents in this regard. Learned counsel for the appellant submits that no statutory form was filed by the dealer – appellant with this appeal and that presently the dealer – appellant is not having any statutory form.
6. It may be mentioned here that today learned counsel for the dealer – appellant submitted an application seeking

adjournment of the appeal. The application has been dismissed vide separate order of even date.

7. Learned counsel for the Revenue has contended that when no statutory form has been filed in this appeal by the dealer – appellant in this matter pertaining to tax period 2013-14, the impugned order passed by learned OHA deserves to be upheld, and that the appeal be dismissed.
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 could

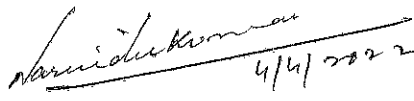


produce statutory form, if any collected from the dealers, even after disposal of the objections filed u/s 74 of DVAT Act, so as to claim further exemptions from tax. However, admittedly ever since the disposal of the objections, dealer has not produced any statutory form with this appeal or during its pendency. The matter pertains to tax period 2013-14. So, there was sufficient time with the dealer – assessee – objector to collect remaining statutory forms from the other dealer.

10. In absence of any further statutory form, as rightly submitted by learned counsel for the Revenue, the dealer – appellant is not entitled to any further exemption from tax. Accordingly, the impugned order passed by learned OHA deserves to be upheld.
11. This appeal is therefore, dismissed.
12. 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.
13. Announced in open Court.

Date : 4/4/2022


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



Appeal No. 186/ATVAT/21/3232-39

Dated: 5/4/22

Copy to:-

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| (1) VATO (Ward-89) | (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

