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

Appeal No.282-297/ATVAT/18

Date of Judgment: 04/04/2022

M/s Dharam Pal Prem Chand Ltd.
4873, Main Road, Chandni Chowk,
Delhi-110006

.....Appellant

v.

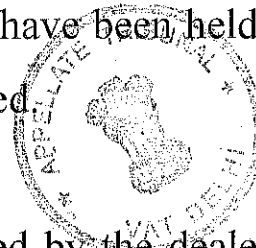
Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. R. K. Batra
Counsel representing the Revenue : Sh. P. Tara

JUDGMENT

1. This judgment is to dispose of above captioned appeals no. 282-297/18. The dealer-appellant has challenged impugned orders dated 06.11.2017 passed by learned Objection Hearing Authority, whereby 16 objections filed u/s 74(1) of Delhi Value Added Tax, by the dealer-objector, have been held to be devoid of any merit, and accordingly rejected.



The above said objections were filed by the dealer challenging notices of default assessment of tax and interest issued u/s 32 of

Narinder Kumar
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DVAT Act and the assessment of penalty imposed u/s 86(15) read with section 33 of DVAT Act.

2. Eight assessments pertain to tax period 2013-14 and remaining 8 assessments pertain to the tax period 2014-15.
3. The assessments were framed by the learned Assessing Authority mainly on the ground that the purchasing dealer had shown stock transfer against F-forms for a lesser amount than the total stock transfer by the selling dealer-appellant, as per information received from Commercial Tax Department, Raipur.
4. Learned Assessing Authority, accordingly disallowed stock transfer as claimed by the dealer-appellant and treated the same as sale without forms, and levied tax and interest. Learned Assessing Authority also imposed penalty on the ground that dealer-appellant had produced records, which were found to be not genuine.
5. That is how, the dealer filed objections u/s 74 of DVAT Act.

The objections having been dismissed, the dealer has come up in appeal.



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6. Arguments heard, file perused.

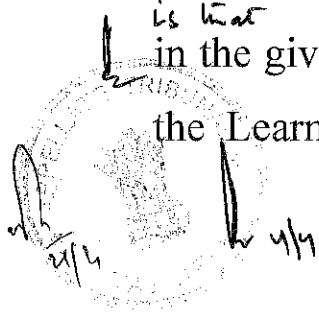
7. It may be mentioned here that today the dealer-appellant has submitted certain 'F' Forms, which find mention in 04 lists, relating to the tax period 2013-14.

Dealer-Appellant has also furnished some statutory forms, which find mention in 08 lists, relating to the tax period 2014-15.

8. Learned counsel for the dealer-appellant submits that the above said statutory forms furnished today before this Tribunal, were issued by the competent authority to the commission consignment agent of the appellant only on 28-12-2020 i.e. subsequent to the passing of the impugned order, and as such the same be taken into consideration so as to allow further exemptions to the appellant, in accordance with law.

9. Learned counsel for the revenue has gone through the copies of the lists of statutory forms accompanied by copies of 'F' forms and Annexures.

The submission put forth by the learned counsel for the parties ^{is that} in the given situation ~~is that~~ the matter needs to be remanded to the Learned Assessing Authority for fresh assessment taking

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into consideration, in accordance with law, the statutory forms subsequently received by the dealer-appellant.

10. 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.....”

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, as regards tax and interest, the matter needs to be remanded to learned Assessing Authority.

11. In this situation, the impugned orders imposing penalty u/s 86(15) of DVAT Act read with section 33 of the Act also deserve to be set aside, for fresh consideration, after providing reasonable opportunity to the dealer of being heard.

12. Accordingly, these appeals are disposed of so as to allow

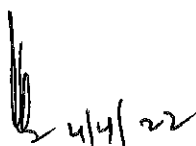


another opportunity to the appellant to present before the learned Assessing Authority, statutory forms, copies whereof have been filed before this Tribunal with lists Ex. C-1 to C-12. Learned Assessing Authority shall subject these forms to verification (including ruling out of any possibility of duplicacy) 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 learned Assessing Authority on 25/04/2022.

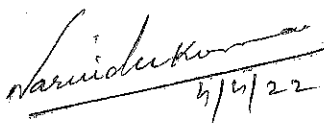
13. File be consigned to the record room. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open court.

Date: 04/04/2022


(Rakesh Bali)
Member (A)




(Narinder Kumar)
Member (J)

Appeal No. 282-297/ATVAT/18/3240-42

Dated: 6/4/22

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