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M/S AUTO PARTS

MA.NO. 323/STAY/22 (In appeal No. 349/ATVAT/22)

19/04/22

Present: Sh. Rahul Gupta, Counsel for Appellant-Applicant.
Sh. M.L.Garg, Counsel for Revenue.

Arguments heard on application u/s. 76(4) of DVAT Act.

Default Assessment of Tax and Interest was made vide notice dated 26/09/2017 after issuing notice to the dealer.

Feeling aggrieved by the said assessment, the dealer filed objections before Learned OHA, which came to be disposed of vide order dated 09/11/2021, while observing that on production of the statutory forms specified there in by the dealer it was a case of 'Nil' demand.

However, on 02/12/2021, Learned OHA reviewed the previous order i.e. order dated 09/11/2021 and raised demand towards additional tax and interest.

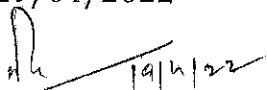
Learned Counsel for the applicant-appellant submits that no notice was issued by the Learned OHA before reviewing the order dated 02/12/2021. There is nothing in the impugned order dated 02/12/2021 to suggest that any notice was issued to the dealer before reviewing the previous order. After going through the impugned order, Learned Counsel for the Revenue also submits that there is nothing in it to suggest that any notice was issued by the Learned OHA to the dealer.

In the given situation, when prima-facie case is made out in favour of the dealer-applicant on the point of non following of principle of nature justice, the application u/s. 76(4) of DVAT Act deserves to be allowed. Same is here by allowed and appeal is entertained without calling upon the appellant to deposit any amount by way of pre-deposit.

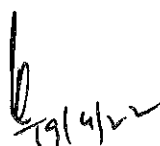
Be put up on 18/05/2022 for arguments on merits.

Announced in Open Court.

Date: 19/04/2022


Narinder Kumar
Member (J)



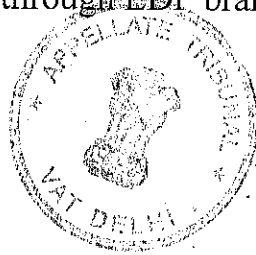

Rakesh Bali
Member (A)

Misc NO-323/Stay/22 / 4084-91
Appeal No. 349/DVAT/22

Dated: 20/4/22

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| (1) VATO (Ward-17) | (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