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

Appeal No. 12-15/ATVAT/2019

Date of Judgment: 19/4/2022

M/s. Allied Engineering Works (P) Ltd.,
M-11 & 22, Badli Industrial Estate,
Badli, Delhi – 110 042.

..... Appellant

V

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. S.B. Mehta.

Counsel representing the Revenue : Sh. S.B. Jain.

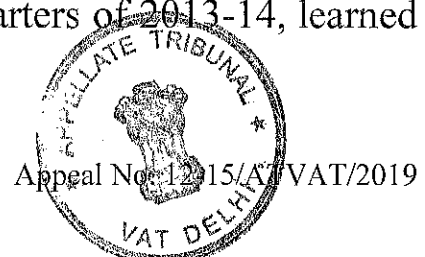
JUDGMENT

1. On 16/3/2018, Assessing Authority – AVATO (Ward-67) framed default assessment of tax and interest u/s 9(2) of Central Sales Tax Act (CST) and thereby directed the dealer – assessee – appellant company to pay Rs. 4,91,62,196/-, the reason being that the said company had failed to furnish details of statutory – C-forms and the requisite forms as well. This demand pertained to 1st quarter of 2013-14.

As regards tax period 2nd, 3rd & 4th quarters of 2013-14, learned

Narinder Kumar
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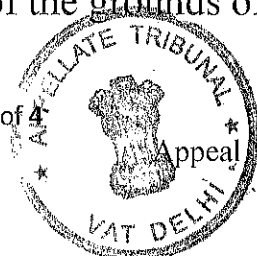


Assessing Authority also raised demand of tax and interest due to same reason i.e. non furnishing of C-forms

2. Feeling aggrieved by the assessments, the dealer filed objections u/s 74 of Delhi Value Added Tax Act, 2004 (hereinafter referred to as DVAT Act). Learned Special Objection Hearing Authority (SOHA) disposed of the objections while allowing certain exemptions to the dealer company on production of some statutory forms, but at the same time upheld the balance demand towards tax and interest, as regards the remaining statutory forms not produced even during pendency of objections.
3. Hence these four appeals.
4. Arguments heard. File perused.
5. Learned counsel for the dealer - appellant has submitted that the dealer is not feeling aggrieved by the levy of tax and interest due to non production of statutory forms and that the only grievance of the dealer – appellant is that learned SOHA has not dealt with a specific objection raised u/s 74 of DVAT Act as regards rate of tax. Learned counsel has drawn our attention to para-5 of the statement of facts, part of the memorandum of appeal and also to para 3 & 6 of the grounds of appeal.

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6. The contention raised by learned counsel for the appellant is that dealer – appellant deals in electrical goods which find mentioned in Schedule-III of DVAT Act and are exigible to tax only @ 5% but learned OHA has upheld tax @ higher than the said rate of 5%.
7. Learned counsel for the dealer has placed on record, in the course of arguments, copies of objections filed before learned SOHA. Their perusal reveals that the aforesaid objection as regards rate of tax was specifically taken by the dealer. In this situation, learned SOHA was required to decide the said objection. However, the impugned orders do not contain any discussion as regards the rate of ^{tax} interest. In the impugned orders, there is also no decision recorded by learned SOHA as regards the said contention/objection. In the given situation, the matter needs to be remanded to learned SOHA for decision afresh dealing with the said objection as regards the rate of tax.
8. Consequently, all these appeals are disposed of the impugned orders passed by learned SOHA are set-aside and the matter is remanded to learned SOHA for decision afresh after providing reasonable opportunity to the dealer – appellant, in accordance with law.

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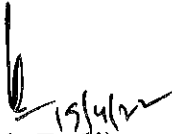
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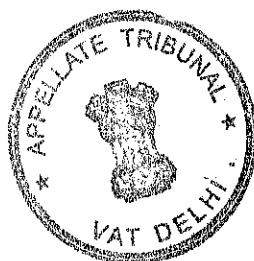
9. Dealer - Appellant is hereby directed to appear before learned Special Objection Hearing Authority on 29/4/2022.
10. File be consigned to the record room. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 19/4/2022


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



Appeal No. 12-15/ATVAT/19/4068-75

Dated: 20/4/22

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| (1) VATO (Ward-67) | (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. | |

PM
A REGISTRAR *20/4/22*

