

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

Appeal No. 212/ATVAT/21  
Date of Judgment: 25/4/2022

M/s. Magnum Resources Private Limited,  
Shivam House Kh. No. 810-819,  
Mahipalpur – 110 037

..... Appellant

V

Commissioner of Trade & Taxes, Delhi

..... Respondent

Representing the Appellant : Sh. Sumit Khanna, CA.  
Counsel representing the Revenue : Sh. C. M. Sharma.

**JUDGMENT**

1. Appellant company – dealer registered under Delhi Value Added Tax Act, 2004 (here-in-after referred to as the DVAT Act) & Central Sales Tax Act, 1956 (here-in-after referred to as the CST Act) has filed this appeal feeling dissatisfied with impugned order dated 19/03/2021 passed by Ld. Special Objection Hearing Authority (here-in-after referred to as SOHA) - (Ward-101). The matter pertains to the 2<sup>nd</sup> quarter 2015.

2. Vide impugned order, Ld. SOHA has directed the dealer-appellant, while disposing of the objections under DVAT Act, to



*Narinder Kumar*  
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pay a sum of Rs. 5,05,179/-, keeping in view that the dealer-appellant could not produce C + E-1-Forms worth Rs. 1,27,343/- and E-I forms of the valuation of Rs. 1,36,23,301/- & I-Forms worth Rs. 22,080/-.

3. The dealer – appellant filed objections to the notice of Default Assessment of Tax & Interest dated 23/3/2020, issued by the Assessing Authority – AVATO (Ward 101), whereby additional tax to the tune of Rs. 17,93,414/- with interest of Rs. 12,12,397/- was levied for want of statutory forms in support of concessional rate.
4. Vide impugned order learned SOHA allowed exemption to the dealer – appellant as regards C + E-1-forms and F-form produced before him but at the same time raised additional demand as regards C + E-1, E-1 and I - forms not produced before the Assessing Authority and also during the hearing on objections.
5. Hence this appeal.
6. Arguments heard. File perused.
7. The only argument put forth by the learned counsel for the



appellant is that ~~the actual~~ while filling up Annexure-2B, in the column meant for "sale against C+EI/EII", valuation was by mistake filled in it, whereas the case is only of C-forms.

8. In the course of arguments, learned counsel for the dealer – appellant has admitted that no such averment regarding mistake by showing valuation in the column meant for "sale against C+EI/EII" was raised before Assessing Authority or even before learned SOHA. Learned counsel for the dealer – appellant has also candidly admitted that despite notice u/s 59(2) or of DVAT Act, the dealer – appellant did not appear before the learned Assessing Authority.

Undisputedly, no step was taken by the dealer – appellant for rectification of the said error in Annexure-2B. Learned counsel for the dealer submits that revised return was not filed because the mistake came to the notice of the dealer – appellant much <sup>later than</sup> subsequent to the expiry of the period prescribed for revising return.

9. Learned counsel for the Revenue has rightly submitted that when admittedly it was never alleged by the dealer – assessee before the Assessing Authority or in the objections before learned SOHA that it was by mistake that the valuation was shown under

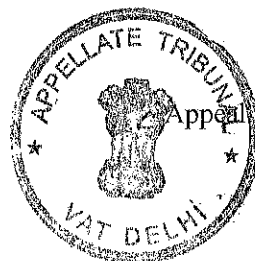


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the head "sale against C+E-I/E-II" and no revised return was filed or sought to be filed, there is no merit in the case of the appellant and the appeal deserves to be dismissed.

10. Undisputedly, plea regarding mistake now attributed to the accountant was not raised before the learned Assessing Authority or in the objections. In absence of any such averment before the department or before learned OHA, none of them had any opportunity to know that it was a case of any such mistake of the accountant. Nowhere in the memorandum of appeal, it has been alleged as to on which date, the dealer came to know of the said mistake as noticed above, no step was taken by the dealer for filing of revised return, within the period prescribed for filing of revised return.
11. In the given facts and circumstances, we do not find any illegality or irregularity in the impugned order passed by learned OHA whereby demand as regards C+E-1, E1-Forms and I-Forms not produced before the Assessing Authority and also before the learned OHA, has been upheld.
12. As a result, this appeal is hereby dismissed.
13. File be consigned to the record room. Copy of the order be




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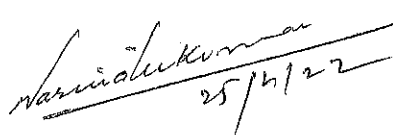
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supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 25/4/2022

  
(Rakesh Bali)  
Member (A)

  
(Narinder Kumar)  
Member (J)



Appeal No. 212 / 71VAT/21/4140-47

Dated: 26/4/22

Copy to:-

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|--|----------------|
| (1) VATO (Ward- /0)  | (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

