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M/S NAVEEN MOTOR AGENCY
APPEAL NO.- 325-331/ATVAT/21

05/04/2022

Present: Sh. Sunil Minocha, VAT/GST Practitioner for the applicant.
Sh. P. Tara, Counsel for the Revenue.

Already an application under Order 22 Rule 4 of CPC with prayer for substitution of Smt. Veena Khatter, widow of Sh. Roop Chand-Proprietor of the concerned-dealer is pending, consequent upon death of Sh. Roop Chand.

Today, a fresh application under Order 22 Rule 4 of CPC has been filed specifying therein that actually there are 3 legal heirs of Sh. Roop Chand i.e. his widow and two daughters, Smt. Suman Chugh and Smt. Meena Khera.

Heard. File perused.


The dealer was proprietor of the proprietorship concern. He having left this world, the right to sue survives.

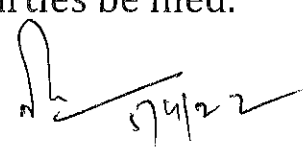
When the ^{application} same is supported by copy of death certificate of Sh. Roop Chand and the affidavits of the 2 daughters re-
^{their} liquishing ~~there~~ rights in the proprietorship concern, in favour of their mother, ⁸ The application ⁸ deserves to be allowed.



Accordingly, Smt. Veena Khatter, is allowed to pursue these appeals.

Accordingly, amended memorandum of parties be filed.


Rakesh Bali
Member (A)


Narinder Kumar
Member (J)

Present: As above.

Arguments advanced on application u/s 76(4) of DVAT Act filed in all Appeals No. 325-331/21.

Learned VAT/GST Practitioner for the applicant submits that the dealer-appellant has submitted as regards as 1st Qtr. C-forms of the value of Rs. 4,33,440/- and deposited a sum of Rs. 2,600/- including interest, towards the value of Rs. 9827/- i.e. of missing (remaining) C-forms; that dealer has also submitted C-forms which were earlier not furnished before the revenue authority, by filing the same in these appeals, as regards the 2nd Qtr., 3rd Qtr and 4th Qtr.

In view of this submission, appeals nos. 325/21, 329/21, 330/21 and 331/21, are entertained without calling upon the dealer to deposit any amount towards tax and interest, by way of pre-deposit. The applications in these 4 appeals are disposed of accordingly.



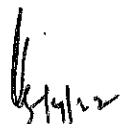
As regards the other three appeals no. 326,327 and 328/21, vide which the dealer has challenged imposition and upholding of penalty, learned counsel for the appellant points out that this was a case of submission of "unsigned return" but the learned Assessing Authority levied penalty u/s 86(10).


Actually, in the impugned order, the reason does not find mention at all. Section u/s 86(10) is not applicable in case of submission of "unsigned return". The appropriate provision is Section 86(9) of DVAT Act.

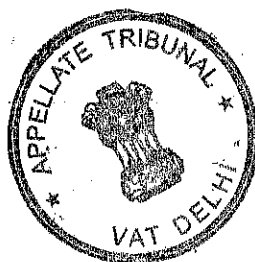
In the given situation, the three appeals pertain^{ing} to the penalty are also entertained without calling upon the dealer-appellant to deposit any amount by way of pre-deposit.

Be put up on 06-05-2022, for final arguments.

Copy of this common order be also placed in other 6 appeals.


Rakesh Bali
Member (A)


Narinder Kumar
Member (J)



Appeal No. 325-331/ATVAT/21/4300-07

Dated: 5/5/22

Copy to:-

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|---|----------------|
| (1) VATO (Ward-39) | (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