

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

Appeal Nos. : 345-348/ATVAT/22

Date of Judgment: 23/5/2022

M/s. ACE Furniture Solutions P Ltd.,
M-67, Greater Kailash –II,
New Delhi.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

Counsel representing the Appellant	:	Sh. Sudhir Sangal
Counsel representing the Revenue	:	Sh. N.K.Gulati

JUDGMENT

1. By way of present appeals, dealer – assessee has challenged order dated ³¹~~30~~/03/21 passed by Learned Special Objection Hearing Authority (hereinafter referred to as SOHA). Vide impugned order, Learned SOHA upheld the additional tax demand of tax and interest, on the ground that the dealer failed to submit C Forms.

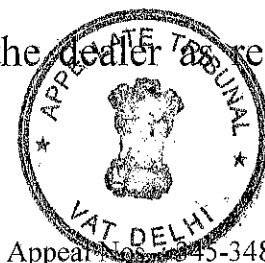
2. It may be mentioned here that prior to the passing of the impugned order, Learned Assessing Authority issued notice of Default Assessment of Tax and Interest u/s. 9(2) of CST Act as regards all the four quarters of 2014-15, due to non furnishing of C Forms.



Narinder Kumar
23/5/2022

23/5/22

3. The dealer has deposited by way of pre-deposit the balance amount of tax and interest in respect of 3rd and 4th Quarter of 2014-15 as per order passed by this Appellate Tribunal under section 76(4) of DVAT Act.
4. During pendency of these appeals, dealer has submitted one C-form for the 1st quarter; one C-form for the 2nd quarter; two C-forms for the 3rd Quarter and two C-forms for the 4th Quarter of 2014-15 and the same have been taken on record. The four lists depicting the said C-forms are Ex.-C-1
5. With the production of the above mentioned 'C' Forms, prima-facie there is nothing due from the dealer towards the demand relating to tax period 1st and 2nd quarter of 2014-15.
6. As regards 3rd and 4th quarter 2014-15, there is demand of additional tax of Rs. 42,452/-; and that of interest of Rs. 45,778/- in respect of 3rd quarter, whereas there is a demand of additional tax of Rs. 13,068/- and that of interest of Rs. 11,648/- relating to tax period 4th quarter. These demands have been upheld by the Learned SOHA.
7. As noticed above, only 2 C Forms for the 3rd quarter and 2 C Forms for the 4th Quarter - 2014-15 have been presented by the dealer during the pendency of these appeals. In other words, no other C Form has been submitted by the dealer as regards 3rd and 4th Qtr 2014-15.



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8. Arguments heard. File perused.
9. Learned counsel for the dealer – appellant has submitted that the C-forms now received by the dealer were earlier not received and that is why the same could not be produced.
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.

11. Accordingly, these appeals are disposed of so as to allow another opportunity to the appellant to present before the Assessing Authority, statutory forms, copies whereof have been filed before this ^{Appellate} Tribunal. The Assessing Authority shall subject these forms to verification (including ruling out of any



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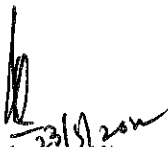
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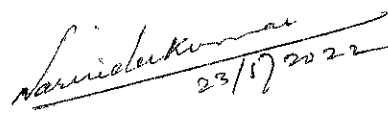
possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said statutory forms, now filed before this Appellate Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law.

12. Appellant is hereby directed to appear before the Assessing Authority on 03/06/2022.
13. File be consigned to the record room. Copy of the judgment 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 : 23/5/2022


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



Appeal No. 345-348/ATNAT/22/4460-67

Dated: 24/5/22

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| (1) VATO (Ward-95) | (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