

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (Judicial) & Sh. Rakesh Bali, Member (Administrative)

Appeal Nos.: 317-320/ATVAT/19

Date of Judgment: 23/5/2022

M/s. Mundhra Chemicals Pvt. Ltd.

16/23/24 Village Pitampura,

Opp. Agrasen Bhawan,

New Delhi – 110 034.

.....Appellant

v.

Commissioner of Trade & taxes, Delhi

.....Respondent

Counsel representing the Appellant : Sh. R. K. Aggarwal

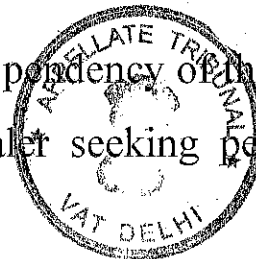
Counsel representing the Respondent : Sh. C. M. Sharma

JUDGMENT

1. The dealer - appellant has filed four above captioned appeals challenging orders dated 12/10/21 passed by the Special Objection Hearing Authority (hereinafter referred to as SOHA). The matter pertains to all the 4 quarters of 2016-17.

2. Vide impugned order, Ld. SOHA -AVATO allowed exemption to the dealer, on production of some statutory forms, in view of decision in M/s. Kirloskar Electric Co. v. CST, Delhi (83 STC 485) and at the same time levied tax as regards the C-form of the value mentioned therein, which were not produced even before learned OHA.

3. It may be mentioned here that during pendency of these appeals, an application was filed by the dealer seeking permission to



place on record additional documents i.e. C-forms. Vide order dated 15/5/2022, copies of 09 C-forms, i.e. three pertaining to 1st quarter, two pertaining to 2nd quarter, two pertaining to 3rd quarter and two pertaining to 4th quarter were taken on record for the purpose of disposal of these appeals.

4. Learned counsel for the dealer – appellant has submitted that these C-forms as find mentioned in lists Ex.C-1 to C-4, could not be produced before learned SOHA as the same were not received while the objections were pending disposal and that only due to the efforts made by the dealer, the same have been received subsequently. Further submission is that non production of the statutory forms before learned SOHA, was neither intentional nor mala-fide.
5. 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.....”

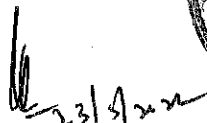


In the light of the judgment of Hon'ble Delhi High Court in M/s Kirloskar Electric Company Ltd., appellant herein deserves another opportunity to submit statutory forms, referred to above.

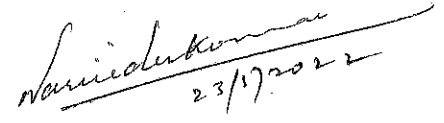
6. Accordingly, these appeals are disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory forms, copies whereof have been filed before this Appellate Tribunal. The Assessing Authority shall subject these forms to verification (including ruling out of any 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.
7. Appellant is hereby directed to appear before the Assessing Authority on 03/06/2022.
8. 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. 317-320/ATVAT/2019/4452-59

Dated: 24/5/22

Copy to:-

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| (1) VATO (Ward-64) | (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