

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

Appeal No. 321/ATVAT/21

Date of Judgment: 24/5/2022

M/s Valvoline Cummins Pvt. Ltd.,
A Square Udhyog Vihar Phase-II,
122016.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. Sudhir Sangal.

Counsel representing the Revenue : Sh. P. Tara.

JUDGMENT

1. This appeal has been filed by the dealer challenging order dated 12/10/2021 passed by VATO (Ward-208) - learned Objection Hearing Authority (OHA), under Central Sales Tax Act (CST), whereby objections filed by the dealer u/s 74(6) of DVAT Act came to be disposed of.

2. The appeal pertain⁶ to the Annual 2015.

Narinder Kumar
24/5/22



3. The objections came to be filed by the dealer against assessment of tax and interest, framed by the Assessing Authority – VATO (Ward-207) vide order dated 28/3/2020.
4. Learned OHA, while disposing of the objections, reduced the demand keeping in view that some statutory forms were produced before him during objections.
5. Still feeling aggrieved, the dealer has filed this appeal.
6. Arguments heard. File perused.
7. Learned counsel for the appellant submits that subsequent to the disposal of the objections by learned OHA, appellant received certain statutory forms (C-Forms) which the appellant has placed on record, and that the same be allowed to be considered by the Assessing Authority.

Learned counsel for the appellant has submitted that the C-forms filed in this appeal could not be earlier submitted by the appellant due to sufficient cause. The contention is that the appeal be disposed of for re-assessment by the Assessing Authority, keeping in view the copies of C forms produced here.



24/5

24/5

8. Learned counsel for Revenue has gone through the copies of the statutory forms, i.e C-Forms submitted by counsel for the appellant before this Appellate Tribunal.
9. In this regard, it is pertinent to mention here that during pendency of this appeal, the appellant has deposited a sum of Rs. 9,61,087/-.
10. List of the Statutory Forms filed by the dealer – appellant before this Appellate Tribunal has been exhibited as Ex. C-1.
11. 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



24/5

24/5

deduction.....”

12. In the light of the judgment of our own Hon'ble High Court in M/s Kirloskar Electric Company Ltd., appellant herein deserves another opportunity to submit C forms, referred to above.
13. Accordingly, this appeal is 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 C-forms to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said C-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. Assessing Authority to provide reasonable opportunity of being heard to the parties.
14. Appellant is hereby directed to appear before the Assessing Authority on 7/6/2022.
15. File be consigned to the record room. Copy of the judgment be supplied to both the parties as per rules. One



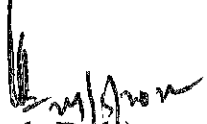
24/5

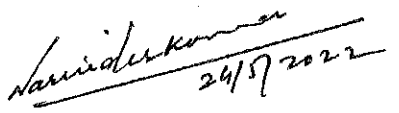
24/5

copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 24/5/2022


(Rakesh Bali)
Member (A)


(Narinder Kumar)
Member (J)



Appeal No. 321/ATVAT/21/4476-83

Dated: 25/5/22

Copy to:-

- | | |
|---|----------------|
| (1) VATO (Ward-200) | (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

