

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (J)

Misc. Application no. - 468/ATVAT/22

In Appeal No.-180-181/ATVAT/14

Date of Order: 6/6/2022

M/s D R Polymers Ltd.
71/7 Rama Road Industrial Area,
Delhi-110015

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Applicant : Sh. Sadashiv Dadheech
Counsel representing the Revenue : Sh. P. Tara.

ORDER

1. This order is to dispose of application filed by the dealer-appellant-applicant with prayer for restoration of two appeals i.e. appeal no. 180/2014 and 181/2014. The above referred to two appeals were dismissed on 15-03-2022 as none appeared on behalf of the appellant on that date and also prior thereto on 23-07-21, 06-08-21, 10-09-21, 02-12-21 and 21-02-22.

6/6/2022



2. Arguments heard. File perused.
3. In the application it has been alleged that the counsel for the dealer-appellant appeared before this Appellate Tribunal in the said appeal on various dates and the appeals were kept for orders.

Further it has been alleged that the appellant did not come to know as to when the re-hearing of the appeal started.

4. A perusal of record would reveal that on 17-07-2017, arguments were advanced by learned counsel for the parties. The next order available in the file is of 26-04-2018. As per this order Learned Member (Judicial) observed that certain legal points required re-arguments. Accordingly, the appeals were adjourned to 17-05-18, and notices were ordered to be issued to the parties.
5. As per order sheet of 17-05-18, Sh. P. Vats appeared as proxy counsel for Sh. Sadashiv, and the appeals were adjourned to 04-06-18. Thereafter on 04-06-18, none appeared on behalf of the appellant and the appeals were adjourned to 12-07-18. On 12-07-18, Sh. Sadashiv, counsel for the appellant and Sh. P. Tara, counsel for the revenue appeared and on their joint request appeals were adjourned to 31-08-18. Sh. Sadashiv



72
6/6/22

regularly appeared up to 19-02-19 but thereafter none appeared on behalf of the appellant on 03/04/19, 04-06-19, 10-07-19.

6. As per record, Sh. Sadashiv appeared on 16-09-19 but on the next three dates 24-10-19, 09-12-19 and 09-01-20, none appeared on behalf of the appellant continuously.
7. The appeal files were put up on 23-03-20 for the first time after 09-01-20. Court notices were accordingly order to be issued to counsel for the appellant for 06-08-21.
8. On 06-08-21 none appeared on behalf of the appellant. In the interest of justice, appeals were adjourned to 10-09-21. On 10-09-21, the staff contacted Sh. Sadashiv, counsel for the appellant on phone and the response was that only a day before he had suffered from Covid-19. Accordingly, the appeals were adjourned to 18-11-21. Thereafter, due to spread of COVID-19 Appellate Tribunal remained closed as per circular dated 13-11-21 and the appeals were taken up on 02-12-21 were adjourned to 21-02-2022 for final arguments.
9. On 21/02/22 – 14/03/22, none appeared on behalf of the appellant. In the interest of justice, appeals were adjourned to 15-03-22. As noticed above, when none appeared on behalf of



the appellant even on 15-03-22, the appeals were dismissed in default of appearance.

10. Learned counsel for the applicant submits that he could not appear because he was suffering from COVID-19 and he had so informed even the staff of this Appellate Tribunal on phone.

Be that as it may, in the given facts and circumstances, keeping in view that dealer cannot be made to suffer because of dismissal of the two appeals in ^{de-} ~~the~~ fault of appearance, the application deserves to be allowed. Same is allowed and both the appeals are ordered to be restored to their original numbers.

11. Copy of the order 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 : 6/6/2022



Narinder Kumar
6/6/2022
(Narinder Kumar)
Member (J)

M.A NO. 468/ATVAT/22/
In Appeal No. 180-181/ATVAT/14/4744-51

Dated: 06/06/22

Copy to:-

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

