

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (Judicial)

Application No. 477 - 480/ATVAT/22

In Appeal No. 402 - 405/ATVAT/22

Date of Order: 7/6/2022

M/s V. A. Infosolutions Pvt. Ltd.

707 CA Appts, Paschim Vihar,

New Delhi-110063.

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

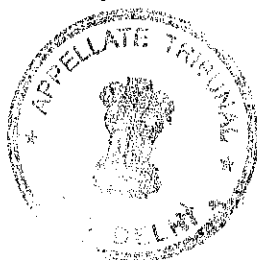
.....Respondent

Counsel representing the Applicant : Sh. Rahul Gupta

Counsel representing the Revenue : Sh. M.L. Garg

ORDER

1. This common order is to dispose of four applications no. 477/22, 478/22, 479/22 & 480/22, purported to have been filed u/s 76(4) of Delhi Value Added Tax Act (hereinafter refer as DVAT Act) along with four appeals no. 402-405/22.
2. The appeals have been filed challenging the order dated 24-12-21 passed by learned OHA whereby imposition of penalty of Rs.

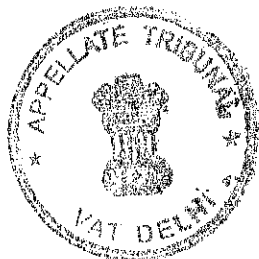


Sh
7/6

2 lakh i.e. Rs. 50,000 for first quarter and second quarter of 2014 (u/s DVAT Act and Central Sales Tax Act separately), by the Assessing Authority has been upheld.

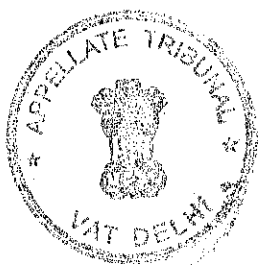
3. Record reveals that on 19-08-15 learned VATO (ward-56) imposed the above referred to penalty of Rs. 2 lakh, u/s 9(2) of CST Act read with section 86 of DVAT Act, due to the reason that the dealer-applicant company failed to furnish return(s) by the prescribed date. Learned Assessing Authority observed that return for the first quarter of 2014 (under CST Act and also under DVAT Act) was late by 206 days; that the return for the second quarter of 2014 (under CST Act and also under DVAT Act) was late by 197 days.
4. Feeling aggrieved by the impugned order passed by learned OHA, dealer company has come up in appeal and by filing the accompanying application/prayed that the appeals be entertained by waiving the condition of pre-deposit.
5. Learned counsel for the applicant has submitted that delay in filing of the returns was due to the fact that the 'appellant was under treatment of severe fever and was advised ~~on~~ complete bed rest. In this regard, learned counsel has referred to copies of

2/6



the medical record filed with the appeals and urged that the appeals be entertained waiving the condition of pre-deposit.

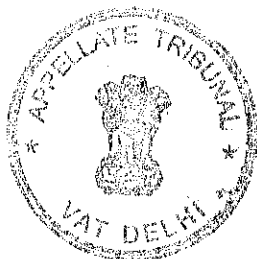
6. From the copies of the medical record, it appears that Sh. Manjeet Yadav, Legal Executive of the dealer was advised rest from 12/12/2021 to 2/1/2022. There is nothing in the record to suggest that he was advised complete bed rest. Learned counsel for the Revenue has rightly pointed out that the medical certificate dated 2/1/2022 does not bear any serial number. The medical certificate should have been issued with serial number specified therein. The applicant – dealer will have to explain at the time of final arguments as to why this certificate is without any serial Number.
7. It may be mentioned here that as alleged in the memorandum of appeal the entire data pertaining to returns was provided by the appellant to its Accountant in time, but due to the carelessness of the accountant, returns were not filed in time. However, no document in the form of affidavit of the accountant has been furnished in this regard.
8. Learned OHA has observed that notice for hearing on objections was sent to the dealer by speed post and the same was received on 08-12-21. The matter was then listed for 13-12-21 for



hearing of objections, but no-one appeared on behalf of the objector. It is true that during the relevant period, COVID-19 Pandemic had its ^{ill-effects} impact. It is not case of the dealer that anyone was authorized to appear before learned OHA on 13/12/2021 to represent the dealer at least to seek adjournment.

9. Ultimately, learned OHA upheld the impugned assessment regarding imposition of penalty under each Act and in respect of both the quarters i.e. first and second. It is not case of the dealer that any application ^{for} review was filed by the dealer before learned OHA on the aforesaid ground of illness of the Legal Executive.
10. In the given facts and circumstances, the applications are disposed of with directions to the dealer – applicant to deposit a sum of Rs. 20,000/- i.e. Rs. 10,000/- for each ^{appeal} within 25 days from today by way of pre-deposit for entertainment of the appeals. Counsel for applicant to apprise ^{Registry of} Appellate Tribunal and counsel for the Revenue regarding compliance with this order, well in time, so that on the next date i.e. 08/7/2022, appeals are taken up for final arguments.
11. Be put up on 8/7/2022 for final arguments subject to compliance.

D
7/6



12. 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 web-site.

13. Announced in open Court.

Date : 7/6/2022

Narinder Kumar
7/6/22

(Narinder Kumar)

Member (J)



APP No. - 477-480/ATVAT/22 /
In Appeal No. 402-405/ATVAT/22 / 4760-67

Dated: 07/06/22

Copy to:-

- | | |
|---|----------------|
| (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