

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

Appeal No. 303/ATVAT/21
Date of Judgment: 08/06/2022

M/s. Ageo Technologies Pvt. Ltd.
Flat No. 29, JMD Apptt., Plot No.11,
Sector-5, Dwarka – 110 075.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

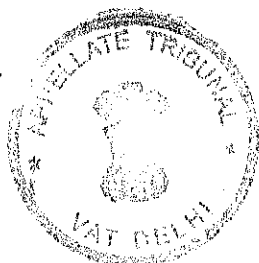
.....Respondent

CA representing the Appellant : Sh. Ankur Bhasin
Counsel representing the Revenue : Sh. C.M.Sharma

JUDGMENT

1. This appeal pertains to tax period 1st, 3rd and 4th Qtr. 2013-14. On 2/9/2014 Learned Assessing Authority framed impugned assessments u/s 9(2) of CST Act and separate assessments U/s 86 (9) of DVAT Act.
2. Feeling aggrieved by the assessments, dealer filed objections. Ld. OHA dealt with the objections and dismissed the same as regards levy of penalties.

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Ld. OHA observed that the dealer had made default in filing of returns on or before the due dates. As regards the submission put forth on behalf of the dealer that the returns could not be timely furnished because of family circumstances of its director, Ld. OHA observed that the reason was not impressive as the dealer was functioning in a regular manner and reporting good amount of turn over as evident from record and further that the dealer could not take such excuses.

3. Hence this appeal.
4. In the appeal, the dealer has averred that the delay in filing of the return was due to medical grounds and death of one its directors. In this regard in the ground of appeal, the applicant has stated as under:-

“That the Directors of the Company during 2013-14 was Mr. Mukesh Chhibber and Mrs. Poonam Chhibber (husband and wife).

That Mr. Mukesh Chhibber was suffering from prolonged illness since 2013 which continued till 2015 and thereafter he died on 18-06-2015. In 2013, Mr. Mukesh Chhibber illness was diagnosed and the family underwent emotional turmoil during the treatment procedures and as a result, both the Directors of the Company being husband and wife were not professionally active. Entire day to day business activities were carried out by the staff as per their knowledge in



unsupervised environment without intervention of the Directors of the Company.

Further during the period 2013 to 2015, the parents of Mrs. Poonam Chhibber (Director of the Company) also died. Mrs. Poonam Chhibber was not in a position to take care of the company post emotional instability and events in her family. Mr. Hemant Kumar Sachdeva, brother-in-law of Mr. Mukesh Chhibber has now taken charge of the Company as the Director of the Company and came to know about the demand of penalties for the relevant periods as mentioned above in table under para 2.2 total amounting to Rs. 2,01,200/- for late filing of return."

5. Arguments heard. File perused.
6. Learned Counsel for the dealer-appellant has referred to copy of death certificate dated 18/06/2015 which pertains to Sh. Mukesh Chhibber, one of the directors of the dealer-appellant. The other document referred to is scanned copy of certificate issued by director of HCR Institute, Psychiatry and De-addiction Centre, Bijwasan, Dwarka, New Delhi. Learned counsel submits that Sh. Mukesh Chhibber remained under treatment at the said institute for major depression disorder during the period from 2013-15. Another document referred to is copy of death of certificate dated 15/08/15 which pertains to Sh. Madan Mohan Chhabra father of Smt. Poonam Chhibber, the other

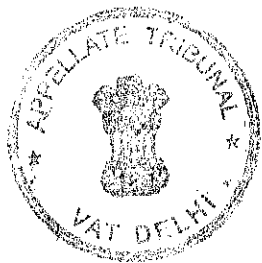


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Director of the appellant and wife of Sh. Mukesh Chhibber. The husband and wife were the only two directors of the dealer –appellant.

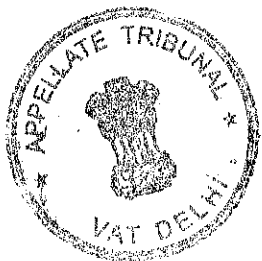
The contention is that the delay in filing of the returns occurred due to the aforesaid reasons and as such the assessments regarding levy of penalties be set-aside.

7. As per certificate dated 12/12/2019 issued by Psychiatry and De-addiction Centre, Bijwasan, Dwarka, New Delhi, during the period from 2013-15, Sh. Mukesh Chhibber remained under treatment at the said institute for major depression disorder. Further as certified Sh. Mukesh Chhibber was unable to perform any purposeful, personal and professional activities.
8. As noticed above, the dealer-appellant is feeling aggrieved only because of the penalties imposed by Learned Assessing Authority and the same having been upheld by Learned OHA.
9. In the course of arguments, Learned CA submitted that the dealer has already deposited a sum of Rs. 31,200/- and penalty only to this extent be upheld, in the given facts and circumstances when one of the directors was suffering from ailment and ultimately left this world and the work relating to the finance and accounts could not properly supervised.



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10. As already noticed above, the dealer – appellant has deposited a sum of Rs. 30,000/- in all towards payment of penalty as regards tax period 3rd and 4th quarter and Rs.1200/- towards penalty pertains to 1st Quarter of 2013, under each Act i.e DVAT Act and CST Act.
11. In view of the particular facts and circumstances narrated herein, Learned Counsel for the Revenue has no objection to the allowing of the aforesaid submission that the amount of penalty be reduced only to Rs. 31,200/-.
12. Keeping in view that Sh. Mukesh Chhibber, one of the Directors was suffering from major depression disorder and ultimately he left this world on 18/06/15; that Smt. Poonam Chhibber the other director of the dealer, lost her father on 15/08/2015, and in view of the peculiar circumstances, even though returns were filed after much delay, it would be just and proper to reduce the amount of penalty in respect of the aforesaid tax periods, in all to Rs. 31,200/- as against total penalty of Rs. 2,01,200/-.
13. As a result, this appeal is partly allowed with the modification in the amount of penalty by way of reduction to Rs. 31,200/- only, making it clear that nothing remains due from the dealer-appellant towards the demand raised by the Assessing Authority and upheld by Learned OHA



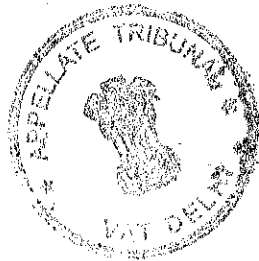
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because of the deposit of Rs. 31,200/- during the pendency of this appeal.

14. File be consigned to record room. 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 : 08/06/2022



Narinder Kumar
8/6/22
(Narinder Kumar)
Member (J)

Appeal No. 303/ATVAT/22/4784-91

Dated: 09/06/22

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

