

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (Judicial)

Appeal No. : 397/2022

Date of Judgment: 13/6/2022

M/s. Cera Sanitaryware Ltd.,
Khasra No. 82/21/2 and 22/2
Village Mundka,
New Delhi-110041 .

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

Counsel representing the Appellant : Sh. Rahul Gupta
Counsel representing the Revenue : Sh. C. M. Sharma

JUDGMENT

1. Present Appeal came to be presented on 09/05/2022. Dealer-assessee-appellant has challenged order dated 17/12/2021 passed by learned SOHA in Form DVAT 24 thereby upholding demand raised by the Assessing Authority (VATO) because of non-furnishing of "C" Forms worth Rs. 59,08,292/- and Rs. 39,774/-.
2. The matter pertains to tax period Annual-2015.
3. On 18/03/2020, learned VATO issued notice of default assessment of tax and interest under Central Sales Tax Act

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raising demand of additional tax of Rs. 16,67,351/- and interest of Rs. 9,77,113/-, due to the reason that the dealer-assessee failed to produce certain "C" Forms despite opportunity.

It may be mentioned here that 23 "C" Forms worth Rs. 99,23,891/- were produced by the dealer before learned SOHA. In this regard, exemption was allowed. While disposing of objections filed by the dealer, learned SOHA allowed exemption to the dealer-assessee and upheld the assessment framed by the Assessing Authority on 18/03/2020 as regards tax and interest under Central Sales Tax Act (CST Act),

4. Hence this appeal.
5. Arguments heard. File perused.
6. As per record, dealer has deposited the entire sum of Rs. 11,40,095/-, towards tax and interest.
7. With the appeal, the dealer filed an application with prayer for additional evidence i.e. certain "C" Forms, on the ground that the same could not be produced before learned OHA as the same had not been received by the dealer during pendency of the objections before learned OHA.
8. Copies of said "C" Forms are available at page 10 and page 11 of the appeal filed. Same are Ex. C-1 & C-2. These pertain to



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the tax period 01/07/2015 to 30/09/2015 and 01/01/2016 to 31/03/2016.

9. In the appeal, appellant alleged that there being sufficient cause which prevented the dealer to submit remaining "C" Forms, the said "C" Forms subsequently received, be taken into consideration and for passing of assessment afresh. Vide separate order of even date, copies of the two C-forms Ex. C-1 & C-2 have been allowed to be taken on record for the purpose of this appeal.

10. 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....."

11. 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.



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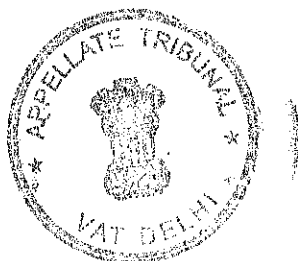
Accordingly, this appeal is disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory forms, copies whereof have been filed before this Tribunal.

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 Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law. Appellant is hereby directed to appear before the Assessing Authority on 30/6/2022.

12. File be consigned to the 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 : 13/6/2022



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(Narinder Kumar)
Member (J)

Appeal No. 397/22/4816-23

Dated: 13/06/22

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

