

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (Judicial)

Misc. Application No. : 445/22

In Appeal No. : 397/ATVAT/2022

Date of Order: 13/6/2022

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

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

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

ORDER

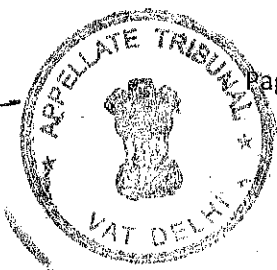
1. This order is to dispose of application – MA No. 445/22 dated 20/04/2022 filed by the dealer-assessee seeking permission to place on record some “C” Forms.

The application is accompanied by photocopies of two “C” Forms pertaining to tax period 01/07/2015 to 30/09/2015 and 01/01/2016 to 31/03/2016.

2. The matter pertains to tax period Annual – 2015.

3. On 18/03/2020, learned Assessing Authority raised demand of additional tax and interest on account of non-production of “C” Forms by the dealer-assessee. Feeling dissatisfied with the said default

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assessment, dealer filed objections before learned OHA. 23 "C" Forms were produced before learned SOHA. No other Statutory Forms having been produced, learned OHA upheld the balance demand towards tax and interest as raised by the Assessing Authority.

4. Learned counsel for the applicant has submitted that the C-forms now sought to be produced were not made available to the dealer – appellant and same having been received subsequent to the passing of the impugned order, the said statutory forms be taken on record for the purpose of disposal of this appeal.

5. On the other hand, learned counsel for the Revenue has submitted that no affidavit has been submitted with the application and that one of the C-forms appears to have been issued on 6/7/2017 and as such the applicant should have explained non filing thereof before the Assessing Authority and before learned SOHA, but there is no explanation in this regard.

6. In this application, applicant has alleged that the dealer-applicant was making sincere efforts to collect remaining "C" Forms, and the same could not be produced, the reason being that the purchasing dealer had not issued the same. As further alleged in the application, two C- Forms have been received subsequent to the passing of the impugned order by learned SOHA and that there was no malafide on the part of the dealer in their non-production.

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7. It is true that in the application no date of receipt of the two C-forms from the purchasing dealer finds mentioned. In suchlike application, dealer – assessee is required to furnish date of receipt of the statutory forms so as to satisfy the court that there was sufficient for non production thereof prior to the date of filing of the application for their production.

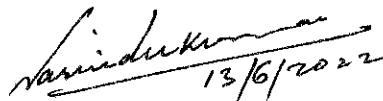
8. Keeping in view the decision in the case of **M/s Kirloskar Electric Co. Ltd. V/s. Commissioner of Sales Tax**, 1991 Vol. 83 of Sales Tax Cases, 485, by Hon'ble High Court of Delhi, the C-forms are taken on record only for the purpose of disposal of this appeal, as sufficiency of cause for their non production earlier can still be considered by the department. The application is disposed of accordingly.

9. 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

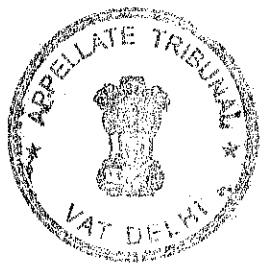



(Narinder Kumar)
Member (Judicial)

M.A NO- 445/22
In Appeal No. - 397/ATVAT/22 / 4808-15 _____ 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