

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

Appeal No.- 401/ATVAT/22

Date of Judgment: 15/6/2022

M/s CMS Computers Limited
35A Rear Building Kilokari Ring Road,
Maharai Bagh, New Delhi-110014

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

A.R. signatory the Appellant : Sh. Shyam Tiwari
Counsel representing the Revenue : Sh. S. B. Jain

JUDGMENT

1. Dealer-appellant is feeling aggrieved by order dated 14-02-2021 passed by learned Special Objection Hearing Authority (herein ^{referred to} after read as SOHA - VATO (ward-85)).
2. Vide impugned order learned VATO (ward-85) has raised a demand of additional tax of Rs. 1,05,575/- and interest of Rs. 81,524/-, due to the reason that the dealer failed to furnish 'C' forms worth Rs. 22,280/- and 'F' forms worth Rs. 8,25,888/-. The order has been passed under Central Sales Tax Act (CST ACT).

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3. Prior thereto on 25-03-2021, learned Assessing Authority framed default assessments of tax and interest under Central Sales Tax Act relating to tax period Annual 2016.
4. Arguments heard. File perused.
5. Sh. Shyam Tiwari, Authorized signatory of the dealer-appellant has himself put-forth submissions while representing that he is authorized to advance arguments even in absence of their Chartered Accountant.
6. The only argument put-forth by the authorized signatory is that subsequent to the passing of the impugned order by learned SOHA, dealer has received form 'F' dated 22-12-2021, and that same be taken into consideration for fresh assessment. He further submits that this 'F' form was earlier not received by the dealer and as such same could not be produced.
7. Copy of the Statutory Form-F filed by the dealer – appellant with this appeal is Ex. C-1. Same is accompanied by copy of Annexure-A.



In the case of **M/s Kirloskar Electric Co. Ltd. V/s. Commissioner of Sales Tax, 1991 Vol. 83 of Sales Tax**

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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....."

8. 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.
9. Accordingly, these appeal is disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory form, copy whereof has been filed before this Appellate Tribunal. The Assessing Authority shall subject this form to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said statutory form, now filed before this Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law. Learned



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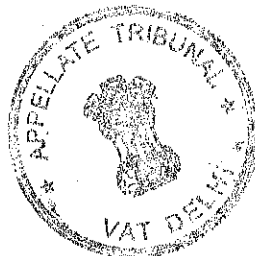
Assessing Authority to provide opportunity being heard to the dealer.

Appellant is hereby directed to appear before the Assessing Authority on 7/7/2022.

10. 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 : 15/6/2022



Narinder Kumar
15/6/2022
(Narinder Kumar)
Member (J)

Appeal No. 401/ATVAT/22/4832-39

Dated: 15/06/22

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

