

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (Judicial)

Stay Application No.: 351-354/22

In Appeal No.: 363-366/ATVAT/22

Date of Order: 04/07/2022

M/s. Allied Power Solutions,
C-301, Delhi Rajdhani Apartments,
80, I.P. Extn., Patpar Ganj, Delhi-110092.

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi

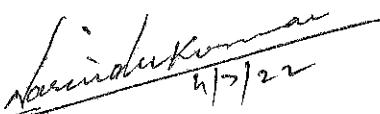
.....Respondent

Counsel representing the Applicant : Sh. Vasdev Lalwani and Sh. Rohit
Gautam
Counsel representing the Revenue : Sh. C. M. Sharma

Order on Stay Applications u/s 76(4) of DVAT Act

1. This order is to dispose of applications No. 351-354/22 filed by the dealer with its four appeals No. 363-366/22, with the prayer that all the said appeals be entertained without calling upon the dealer-appellant to deposit any amount by way of pre-deposit.

2. Dealer-appellant-applicant has preferred appeals feeling aggrieved by the four orders dated 19/01/2022 passed by learned OHA whereby the dealer has been called upon to deposit the amount of additional tax due, with interest, as regards Statutory Forms not produced, even during pendency of the objections.


4/7/22

3. Objections were filed before learned OHA challenging notices of default assessment of tax and interest, issued by the learned Assessing Authority in respect of all the four quarters of 2016-17.

4. Case of the dealer-appellant, as per memorandum of appeal is that the dealer has received various Statutory Forms i.e. 'C'/F and I and that the Assessing Authority did not take into consideration that due to COVID-19 pandemic, business establishments remained closed.

As regards, impugned order passed by learned OHA, case of the dealer is that he did not allow reasonable opportunity to the dealer to procure and submit remaining Statutory Forms.

5. Dealer – appellant has today submitted “C” forms in respect of ^{all i.e.} 1st, 2nd, 3rd and 4th quarter; while alleging in the applications that the same were subsequently received i.e. after the disposal of the objections under Section 76 of DVAT Act.

6. Record reveals that some forms were produced by the dealer ^{even} before learned SOHA during proceedings on objections. Exemptions were allowed in respect of said forms, but as regards the remaining/missing forms, learned SOHA upheld the demands.

7. Learned counsel for the dealer – applicant submits that in respect of 1st, 3rd and 4th quarter, learned SOHA has again levied tax as regards missing E-1 forms even though the Assessing Authority has already levied tax in respect of the said transactions (shown as C+E1/E2) in the return. Learned counsel submits that actually these transactions ^{also} pertained to “C” forms and not C+E1/E2, and that this fact be taken into consideration while disposing of these applications regarding pre-deposit.

Learned counsel has submitted a chart depicting demand of Rs. 4,43,802.45/- stated to be due as per the authorities, against missing/remaining "C", "F" and "I" forms.

In the course of arguments, learned counsel for the applicant ^{has} submitted that dealer-applicant is ready to deposit Rs. 2,00,000/- by way of pre-deposit for the purpose of entertainment of these appeals.

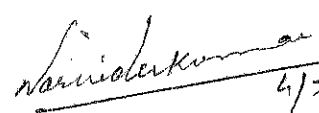
Of course, verification of the "C" forms, submitted on behalf of the dealer today, shall be carried out subsequently subject to the final outcome of the appeals. However, for the purposes of present appeals, keeping in view the valuation of the said "C" forms in respect of all the four quarters of 2016-17 and the disputed demand, the applications are disposed of directing the dealer – appellant to deposit Rs. 2,00,000/- in total, in respect of all the four quarters, for the purpose of entertainment of these four appeals.

The dealer to deposit the said amount of pre-deposit within 25 days from today. On compliance, Registry and counsel for the Revenue to be informed forthwith so that on the next date i.e. 10/08/2022, the appeals are taken up for final arguments.

8. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority.

Announced in open Court.

Date: 04/07/2022


(Narinder Kumar)
Member (Judicial)

Stay Application No. 351-354/22
In Appeal No. 363-366/ATVAT/22 / 4920-28

Dated: 04/07/22

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