

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

Misc. Application No. 490/ATVAT/22
In Appeal No. : 391/ATVAT/22
Date of Order: 05/07/2022

M/s. Acutech Mef. Co. Pvt. Ltd.
28/28, Libaspur,
Delhi – 1100 42.

.....Applicant

v.

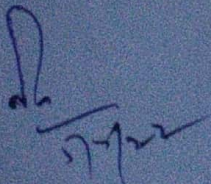
Commissioner of Trade & Taxes, Delhi

.....Respondent

Counsel representing the Appellant : Sh. A.K.Bhardwaj &
Sh. Manish Hirani
Counsel representing the Revenue : Sh. S.B.Jain

ORDER

1. This order is to dispose of application of the dealer – appellant u/s. 76(5) of DVAT Act read with Section 76(7) of DVAT Act and 9(2) of CST Act.
2. No reply has been filed by the Revenue.
3. Arguments advanced by the Learned Counsel for the parties on this application while arguing the appeal on merits.
4. Default assessment of Tax and Interest under CST Act was framed by the Assessing Authority on 27/03/2021 because of



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non furnishing of statutory forms i.e. F Forms and for want of clarification regarding mismatch in the value of sale in Form F – 9 and DVAT 16.

5. The dealer – appellant challenged the matter before Learned SOHA. Thereupon Learned SOHA allowed certain exemptions to the dealer consequent upon production of 4 C – Forms and 18 F Forms. But as regards missing C Forms and F Forms, Learned SOHA upheld the demand/assessment. That is how appeal came to be filed.
6. The matter pertains to two tax periods i.e. 1st quarter and 2nd quarter of 2016.
7. During pendency of this appeal, dealer – appellant has filed present application seeking permission to raise following two additional grounds:

- a) Whether the requirement of F Forms in respect of stock transfer of goods sent for Job Works to the states outside Delhi mandatory as per Section 6A of the CST Act?
- b) Whether the tax can be imposed on stock transfer of goods sent for job works outside the state of Delhi on non-production of F Forms but production of documentary evidence of goods movement to outside Delhi and returned back of the same goods to the state of Delhi as per the decision of the Hon'ble

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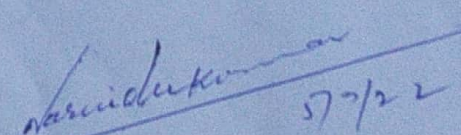
Supreme Court of India as well as Hon'ble High Court of Allahabad?

8. Learned Counsel for the dealer- appellant has submitted that the above said two questions are sought to be raised in general as the same have wider implication in job work cases, when these questions have not been decided.
9. Admittedly, the two grounds now raised in this appeal were not raised before the Assessing Authority or before Learned SOHA.
10. Learned Counsel for the Revenue submits that he has no objection to decision on the questions in general.
11. Keeping in view all this, notwithstanding that the dealer did not raise any of these two grounds before Learned SOHA, the same are allowed to be raised in the interest of justice for decision in general.
12. Application is accordingly disposed of.

Announced in open Court.

Date : 05/07/2022




(Narinder Kumar)
Member (J)

Miss Application no. 490/ATVAT/22 / 4945-52
In Appeal No. 391/ATVAT/22

Dated: 05/07/22

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