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

Rev. No. 08/ATVAT/2017
In Appeals No. 414-415/ATVAT/13
Date of Order: 06/07/2022

Union of India,
(Earlier impleaded as Organizing
Committee, Commonwealth Games, 2010)
Department of Sports,
Ministry of Sports and Youth Affairs,
2nd Floor, Gate No. 10,
Jawaharlal Nehru Stadium Complex,
Lodhi Road, New Delhi-110003. ....Applicant

v.

Commissioner of Trade & Taxes, Delhi. ....Respondent

Counsel representing the Applicant : Sh. Neeraj Choudhary.
Counsel representing the Revenue : Sh. P. Tara.

ORDER

1. This order is to dispose of review application filed by Union of India – applicant with prayer for review of order dated 19/1/2018 passed by this Appellate Tribunal in Appeal No. 414-415/13.

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2. Vide order dated 19/1/2018 this Appellate Tribunal dismissed both the appeals bearing No. 414-415/13.

Those appeals were filed challenging impugned order dated 1/2/2013 passed by learned Special Commissioner-I – Objection Hearing Authority (OHA). Vide order dated 1/2/2013, learned OHA partly allowed the objections filed by the dealer under section 74 of Delhi Value Added Tax Act 2004 (here-in-after referred to as the Act) and accordingly, partly upheld the default assessments dated 13/3/2012 framed by learned Assessing Authority.

3. On 13/3/2012 learned Assessing Authority had called upon the dealer M/s. Organizing Committee, Commonwealth Games, 2010, Delhi – appellant to pay penalty of Rs. 1,64,07,502/- due to the reason that the said dealer was required to deduct 2% amount towards TDS from the payments made by the said Organizing Committee – dealer to the contractors. Learned Assessing Authority found that the Organising Committee – dealer had failed to deduct TDS and also not furnished any reason/ explanation as to why the same was not deducted.

4. In the assessment order issued u/s 33 of DVAT Act, names of six contractors find mentioned. When the matter came up before learned OHA, by way of objections, learned OHA upheld the liability in respect of M/s. Russell Interior (P) Ltd. and M/s. H.S.

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Oberoi Buildtech (P) Ltd. only and accordingly directed the Assessing Authority to recalculate the liabilities.

5. Consequently, fresh notice of assessment of penalty dated 8/3/2013 was issued by learned Assessing Authority. However, as regards the two contractors named above (M/s. Russell Interior (P) Ltd. and M/s. H.S. Oberoi Buildtech (P) Ltd.), the dealer-appellant filed appeals No. 414-415/13. Learned Appellate Tribunal dismissed the appeals.

6. Hence, this review application presented on 8/2/2018.

7. Arguments heard. File perused.

8. It may be mentioned here that six grounds were taken in the application to seek review of the judgment passed by the Appellate Tribunal, but in the course of arguments, learned counsel for the applicant has submitted that he does not press grounds A, E & F.

9. The contention raised by learned counsel for the applicant is that this Appellate Tribunal, while disposing of the appeals did not take into consideration that a sum of Rs. 44,37,214/- deposited by the dealer – appellant on 12/4/2013 was also to be taken into consideration, and since this fact was not taken into consideration, the judgment needs review on this point.

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10. Learned counsel for the Revenue has rightly pointed out that this amount of Rs. 44,37,214/- is stated to have been deposited by the dealer - applicant on 12/4/2013 i.e. after the passing of the rectification order dated 8/3/2013, whereas the scope of the appeals filed by the dealer – applicant was levy of penalty and the legality / illegality of the impugned assessment dated 13/3/2012 framed by the Assessing Authority and that of the impugned order dated 1/2/2013 passed by learned OHA.

11. Faced with this submission, learned counsel for the dealer – applicant submits that he would take appropriate steps before the Department for adjustment of the said amount of Rs. 44,37,214/- stated to have been deposited by the dealer – appellant on 12/4/2013.

The fact remains that this ground 'B' does not lie for review of the order / final judgment passed by this Appellate Tribunal.

12. As regards grounds C & D, same pertain to the rectification order dated 8/3/2013. The said order was not subject matter of appeals No. 414-415/13. Therefore, the review application is not maintainable on the basis of any of these two grounds C & D.

13. As regards ground F, learned counsel for the applicant does not dispute that it pertains to averment regarding some apprehension of the appellant – applicant that execution of the impugned

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judgment and recovery proceedings on its basis would lead to absurd conclusions and as such is actually no ground to seek review of the final order / judgment.

14. In view of the above discussion, there is no ground or reason for review of the final judgment/order dated 29/6/2017 passed by this Appellate Tribunal. Accordingly, this review application is hereby dismissed.

15. File of review petition and record of the appeals 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 web-site.

Announced in open Court.

Date : 6/7/2022.

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(Narinder Kumar)
Member (J)

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Copy to:-

(1) VATO (Ward-)
(2) Second case file
(3) Govt. Counsel
(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.
(6) Dealer
(7) Guard File
(8) AC(L&J)

REGISTRAR

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