

**BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI**

Sh. Narinder Kumar, Member (Judicial)

Appeals No : 412 & 413/ATVAT/2022

Date of Judgment : 28/7/2022

M/s Shakuntlam Xclusif,  
J 91 Main Market Rajouri Garden,  
New Delhi-110 027.

.....Appellant

V

Commissioner of Trade & Taxes, Delhi

..... Respondent

Counsel representing the Appellant : Sh. Rahul Gupta.

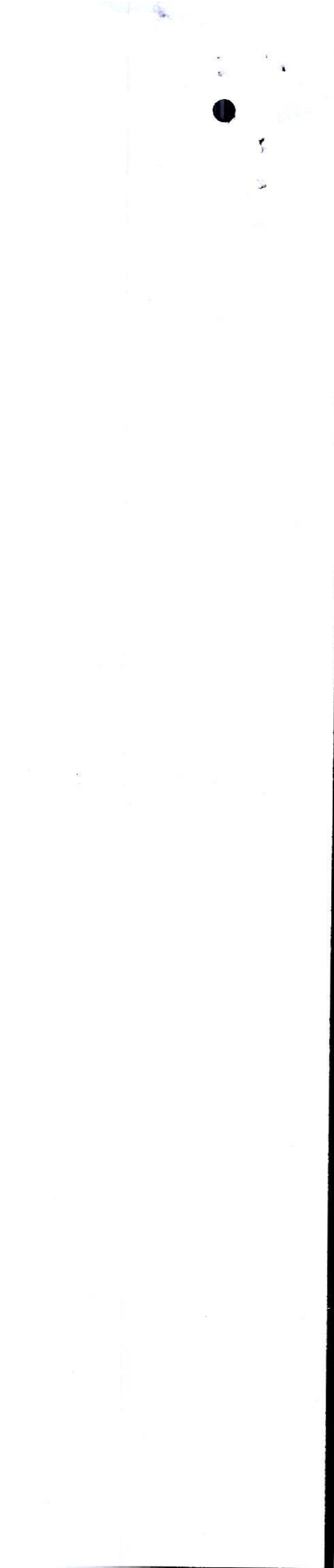
Counsel representing the Revenue : Sh. S.B. Jain.

**JUDGMENT**

1. The above captioned two appeals No. 412 & 413/2022 have been filed by the registered dealer having Tin No. 07780154176. The dealer is feeling aggrieved by common order dated 6/5/2012 passed by Learned Objection Hearing Authority (OHA) on the objections filed by the dealer-assessee u/s 74 of DVAT Act as the objections have been dismissed for the reasons recorded therein.

*Narinder Kumar*  
28/7/2022





2. Objections were filed as the dealer was feeling aggrieved by the framing of assessments of two penalties i.e. u/s 86 (14) of DVAT Act.

Penalty of Rs. 50,000/- was imposed in respect of tax period Annual 2014-15, u/s 33 read with section 86(14) of DVAT Act.

Another penalty of Rs. 50,000/- was imposed u/s 33 read with section 86(14) of DVAT Act, in respect of tax period Annual 2015-16.

3. Learned Assessing Authority levied one penalty on the ground that the dealer failed to appear or make any communication despite services of notice u/s 59(2) of DVAT Act when called upon, in connection with assessment of 2014-15.

The other penalty for the tax period from 1/3/2015 to 31/3/2016, came to be imposed on the ground that despite notice u/s 59(2) of DVAT Act to the dealer regarding submission of documents, it failed to appear or make any communication.

4. Since learned OHA rejected the objections, ~~same~~ by observing that learned Assessing Authority rightly framed the said assessments in accordance with law, dealer has come up in



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appeals.

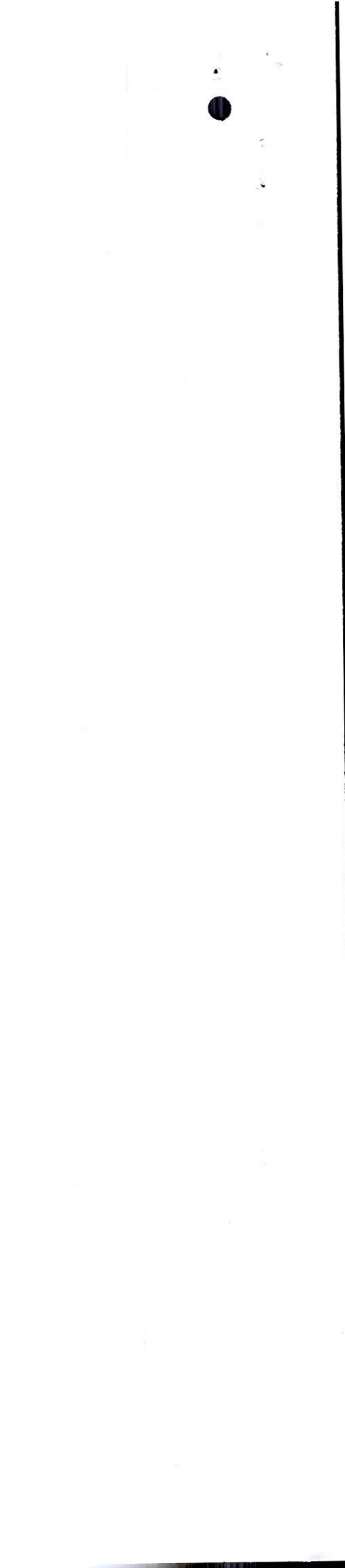
5. Argument heard. File perused.
6. Learned counsel for the appellant ~~applicant~~ has submitted that whereas assessment order dated 09-03-2019 pertaining to tax period Annual 2014-15 was framed on second Saturday, the assessment in respect of tax period Annual 2015-16 was framed on 07-03-2020 i.e. Saturday, and since these were passed on non working days, the assessments deserve to be set-aside.

Learned counsel for the Revenue admits that 09-03-2019 was second Saturday and 07-03-2020 was Saturday.

It remains unexplained as to how assessments came to be framed on non working days. Simply on this ground, the impugned assessments deserve to be set-aside.

Learned counsel for the appellant has drawn attention to the assessment regarding tax and interest subsequently framed on 14/12/2021 in respect of tax period – Annual 2014 and the assessments framed on 15/12/2021 in respect of all the four quarters of 2015-16 after representative of the dealer appeared before Assessing Authority and furnished requisite record. Since the assessments in respect of the said tax periods have

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been  
already/ framed, I do not find any ground to allow the Department to decide the matter afresh.

7. As a result, these appeals are allowed and the assessments of penalty as well as the impugned order passed by learned OHA are hereby set-aside.
8. File be consigned to the record room. Copy of the judgment be also placed in the file of appeal No. 413/22. 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 : 28/7/2022.

  
(Narinder Kumar)  
Member (J)





Appeal no. 412-413/ATVAT/22/5194-5201

Dated: 29/7/22

Copy to:-

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|--------------------------------------------------------------------------------------------------------|----------------|
| (1) VATO (Ward-58)                                                                                     | (6) Dealer     |
| (2) Second Case File                                                                                   | (7) Guard File |
| (3) Govt. Counsel                                                                                      | (8) AC(L&J)    |
| (4) Secretary (Sales Bar Association)                                                                  |                |
| (5) PS to Member (J) for uploading the judgement on the portal of DVAT/GST, Delhi – through EDP branch |                |



*[Signature]*  
REGISTRAR

