

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

Appeal No. 406-409/ATVAT/22

Date of Judgment: 03/8/2022

M/s Rao & Co (Interior)
Flat No. G 702 Kaveri Apartments,
Plot No. 4, Sector 6, Dwarka
New Delhi- 110075

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. Anil Verma
Counsel representing the Revenue : Sh. S.B. Jain

JUDGMENT

1. Impugned order challenged in this case by way of the above captioned four appeals came to be passed by learned OHA/Joint Commissioner on 17-02-2022, whereby four objections filed by the dealer u/s 74(1) of DVAT Act challenging four assessments of penalties came to be rejected.
2. The assessments of penalties, challenged by the dealer pertained to the tax period 3rd and 4th quarter of 2013-14. It may be mentioned here that learned Assessing Authority



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imposed two penalties for the 3rd quarter, one being under the DVAT Act and the other under CST Act. Similarly, out of the two penalties imposed and relating to 4th quarter of 2013-14, one pertained to DVAT Act and the other to CST Act.

3. Argument heard. File perused.
4. Learned counsel for the appellant has contended that while passing the impugned order, OHA has nowhere discussed the objections raised by the dealer-objector and simply upheld the assessment framed by Assessing Authority in respect of 3rd and 4th quarter of 2013-14, and as such appeals deserve to be allowed.
5. A perusal of the impugned order would reveal that the plea put-forth by the objector challenging the assessments was that Canara Bank had uploaded DVAT 43 late, which resulted in late furnishing of the returns.

Before upholding these assessments Learned OHA was required to enquire into this appeal and adjudicate the aforesaid plea put-forth by the objector. However, this plea has nowhere been discussed in the impugned order leading to dismissal of the objections.

Learned counsel for the Revenue agrees that the plea was required to be discussed but it has nowhere been discussed by learned OHA.

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6. In the given facts and circumstances, when it has been expressed by the Appellate Tribunal that this is a case where matter deserves to be remanded to Learned OHA for decision of the objections afresh, Learned Counsel for the parties are in agreement that the matter needs to be remanded to Learned OHA for decision afresh in the objection proceedings and also by providing reasonable opportunity of hearing to the dealer-appellant.
7. As a result, these appeals are disposed of, the impugned order passed by Learned OHA is set aside and matter is remanded to Learned Objection Hearing Authority for decision of the objections afresh after providing reasonable opportunity of hearing to the dealer-appellant.
8. Accordingly, dealer-appellant to appear before Learned OHA on 26/8/2022.
9. File be consigned to the record room. Copy of the judgment 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 : 03/08/2022




(Narinder Kumar)
Member (Judicial)

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Dated: 03/08/22

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 Bar Association) | |
| (5) PS to Member (J) for uploading the judgement on the portal of
DVAT/GST, Delhi-through EDP branch | |




REGISTRAR