

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

Application No. : 514/ATVAT/22

In Appeal No. 416/ATVAT/22

Date of Order : 5/8/2022

M/s Seasons Collection,  
D-100, First Floor, Ajay Enclave,  
New Delhi-110018.

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Applicant : Sh. Satish Kumar Dixit

Counsel representing the Revenue : Sh. P. Tara

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

1. This order is to dispose of application – M.A. No. 514/22 filed u/s 76(4) of DVAT Act. Prayer in the application is that the appeal filed u/s 76 of DVAT Act against impugned orders dated 18/04/2022 and 09/06/2022, passed by Learned OHA, be entertained waiving off the condition regarding deposit of the disputed amount consisting of tax, interest and penalty.
2. Vide impugned order dated 18/04/2022, Learned OHA upheld assessment of tax and interest framed by the Assessing Authority u/s 32 of DVAT Act on 17/03/2018, as regards tax period Annual 2013-14.



*Handwritten signature and date:*  
5/8/22

3. Default assessment of tax and interest u/s 32 of DVAT Act was framed due to the reason that despite notices u/s 59(2) of DVAT Act issued on 27/07/2017, 21/08/2017, 25/08/2017 and 06/10/2017, no one appeared on behalf of the dealer-assessee nor the requisite information was provided by the dealer; and that the dealer failed to produce tax invoices, bank statement and other documents sought to be produced vide the above said notices.
4. Vide assessment dated 17/03/2018, Learned Assessing Authority framed default assessment while disallowing ITC u/s 9(8) of DVAT Act.
5. When the objections filed against the said assessment were dismissed, dealer filed application u/s 74B(5) of DVAT Act for the review of the said order. Learned OHA dismissed the review application vide order dated 09/06/2022. Hence this appeal accompanied by the application u/s 76(4) of DVAT Act.
6. Arguments heard. File perused.
7. Learned counsel for the applicant submits that even though no document was furnished by the dealer before Assessing Authority, copies of mismatch report (2A & 2B) for the year 2013-14, copy of assessment order, copy of DVAT Returns 1<sup>st</sup> & II<sup>nd</sup> qtrs., copy of penalty order, copy of Form-9, purchase bill for all qtrs. (Tax Invoices), Ledger Account Details, Bank Statements etc., were submitted by the dealer before Learned




OHA, but, he did not take into consideration any of the said documents before upholding the impugned assessment. So the contention is that appeal be entertained by waiving off the condition of pre-deposit.

8. Keeping in view that in the impugned order learned OHA has himself observed about production of the above mentioned documents during objections proceedings, it was the duty of learned OHA to take into consideration all the said documents and record his reasons. But, prima facie it appears that none of the said documents has been considered or discussed before upholding the impugned assessment.
9. Accordingly, when prima facie case is made out in favour of the dealer-applicant, this application is allowed and appeal is entertained without calling upon the dealer to deposit any amount by way of pre-deposit.
10. 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: 5/8/2022



  
(Narinder Kumar)  
Member (Judicial)

Application No. 514/ATVAT/22 / 5250-57  
In Appeal No. 416/ATVAT/22

Dated: 5/8/22

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**

