

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

Appeal Nos.: 363-366/ATVAT/22

Date of Judgment: 10/8/2022

M/s. Allied Power Solutions,
C-301, Delhi Rajdhani Apartments,
80, I.P. Extn., Patpar Ganj,
Delhi-110092.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

Counsel representing the Appellant : Sh. Vasdev Lalwani.
Counsel representing the Revenue : Sh. C. M. Sharma.

JUDGMENT

1. Dealer-appellant has preferred appeals feeling aggrieved by the four orders dated 19/01/2022 passed by learned Objection Hearing Authority whereby the dealer has been called upon to deposit the amount of additional tax due, with interest, as regards statutory forms not produced, even during pendency of the objections.
2. Objections were filed before learned OHA challenging notices of default assessment of tax and interest, issued by the learned Assessing Authority in respect of all the four quarters of 2016-17.

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3. Case of the dealer-appellant, as per memorandum of appeal is that the dealer had received various statutory forms i.e. 'C'/F and I and that the Assessing Authority did not take into consideration that due to COVID-19 pandemic, business establishments remained closed.

Record reveals that some forms were produced by the dealer even before learned SOHA during proceedings on objections. Exemptions were allowed in respect of said forms, but as regards the remaining/missing forms, learned SOHA upheld the demands.

As regards, impugned order passed by learned OHA, case of the dealer is that he did not allow reasonable opportunity to the dealer to procure and submit remaining statutory forms.

It may be mentioned here that in compliance with order u/s 76(4) of DVAT Act, dealer deposited a sum of Rs. 2,00,000/- for the purpose of entertainment of these appeals.

4. Arguments heard. File perused.
5. It may be mentioned here that during pendency of these appeals, Dealer – appellant submitted "C" forms in respect of all i.e. 1st, 2nd, 3rd and 4th quarters, while alleging in the applications that the same were subsequently received i.e. after the disposal of the objections under Section 76 of DVAT Act.



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Learned counsel for the dealer – appellant has submitted that the dealer has been making efforts to collect the above said C-forms and that the same have been received subsequently i.e. after the passing of the impugned order by learned OHA and that the same be taken into consideration for fresh assessment in accordance with law.

6. Vide order dated 4/7/2022, 55 statutory forms i.e. C-Forms have been allowed to be produced on record for the purpose of present four appeals. The four lists depicting the particulars of C-forms are Ex-C1 to C4.
7. In the case of **M/s Kirloskar Electric Co. Ltd. V/s. Commissioner of Sales Tax**, 1991 Vol. 83 of Sales Tax Cases, 485, decided by our own Hon'ble High Court, Hon'ble Judge observed in the manner as :-

“The State is entitled to the tax which is legitimately due to it. When the Sales Tax Act provides that a deduction can be claimed in respect of sales affected in favour of registered dealers than the deduction should be allowed. The proof in support of claiming the deduction is the production of the S.T. 1 forms. Even though the S.T. 1 forms were produced after the assessment had been completed. It will not be fair or just not to allow the legitimate deduction.....”

8. In the light of the judgment of Hon'ble High Court in M/s Kirloskar Electric Company Ltd., appellant herein deserves



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another opportunity to submit statutory forms, referred to above.

Accordingly, these appeals are disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory forms, copies whereof have been filed before this Appellate Tribunal. The Assessing Authority shall subject these forms to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said statutory forms, now filed before this Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law.

9. Appellant is hereby directed to appear before the Assessing Authority on 29/8/2022.
10. No other argument was advanced by learned counsel for the appellant in these appals.
11. File 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 website.

Announced in open Court.

Date : 10/8/2022


(Narinder Kumar)
Member (J)

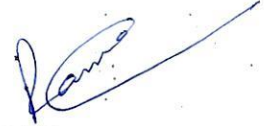


Appeal no. 363-366/ATV AT/22/5298-05

Dated: 10/8/22

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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

