

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

Appeal No. 416/ATVAT/22
Date of Judgment : 18/8/2022

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

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant: Sh. Satish Kumar Dixit
with Sh. Manpreet Singh
Kapoor, CA.
Counsel representing the Revenue : Sh. P. Tara.

JUDGMENT

1. By way of present appeal, dealer-assessee-objector has challenged order dated 18/04/2022 passed by Learned Objection Hearing Authority whereby its objection u/s 74 of Delhi Value Added Tax Act (hereinafter referred to as DVAT Act) have been dismissed, and also the order dated 09/06/2022 vide which application for review of the order dated 18/04/2022 has been dismissed by Learned OHA.

2. Vide impugned order dated 18/04/2022, learned OHA upheld assessment of tax and interest framed by the Assessing



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Authority u/s 32 of DVAT Act on 17/03/2018, as regards tax period Annual 2013-14.

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.

Vide assessment dated 17/03/2018, Learned Assessing Authority framed default assessment while disallowing ITC u/s 9(8) of DVAT Act.

4. With the rejection of the objections, dealer has come up in appeal.
5. Arguments heard. File perused.
6. 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 1st & IInd 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



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OHA but, he did not take into consideration any of the said documents before upholding the impugned assessment. The contention is that the matter needs to be remanded to learned Assessing Authority taking into consideration all the relevant documents.

7. Vide order dated 05/08/2022, this appeal has been entertained without calling upon the dealer to deposit any amount by way of pre-deposit.
8. As noticed above, Learned Assessing Authority while framing default assessment of tax and interest observed that in response to the four notices u/s 59(2) of the DVAT Act, no one on behalf of the dealer appeared or furnished information i.e. tax invoices, bank statement and other documents, he had no option but to frame assessment.
9. In Para No. 4 of the objections u/s 74 of DVAT Act, submitted before OHA, the dealer pleaded that he was producing relevant documents, in its possession, concerning sale and purchase for verification and examination.

In the impugned order, Learned OHA referred to the documents produced on behalf of the dealer-objector, but it appears that he did not discuss relevancy of any of these documents before upholding the assessment.

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10. Following documents are stated to have been produced by the dealer before learned OHA :

“Copies of the Mis-Match report (2A & 2B) for the year 2013-14, copy of assessment order, copy of DVAT Returns Ist & IInd qtr., copy of penalty order, copy of Form-9, purchase bill for all qtr.(Tax Invoices), Ledger Account Details, Bank Statements etc.”

All the above mentioned documents were relevant for adjudication of the matter in dispute.

In the given situation, there is merit in the contention raised by Learned Counsel for the dealer-appellant that matter needs to be remanded to Assessing Authority for framing of assessment afresh taking into consideration all the material documents, and providing reasonable opportunity of being heard, to the dealer. Learned counsel for the Revenue has also submitted that in the given facts and circumstances, even though the objections have been rejected by OHA, for framing of assessment in accordance with law, the matter ~~is~~ required to be remanded to the Assessing Authority.

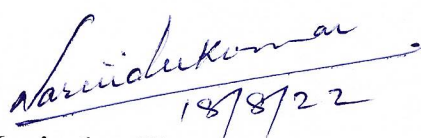
11. As a result, the appeal is disposed of and while setting aside the impugned order dated 18/04/2022, matter is remanded to Learned Assessing Authority for framing of the assessment afresh, after providing reasonable opportunity of being heard, to the dealer.



12. Dealer to appear before Learned Assessing Authority on 29/08/2022.
13. 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: 18/8/2022


(Narinder Kumar)
Member (Judicial)



Appeal no. 416/ATVAT/22/5346-53

Dated: 18/08/2022

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

