

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

Appeal Nos.: 417-421/ATVAT/22  
Date of Judgment : 23/09/2022

M/s Sirjan Ayuermed,  
WZ-79A Gali no. 4,  
Shiv Nagar-110058.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. S. Kumar.

Counsel representing the Revenue : Sh. C. M. Sharma.

**JUDGMENT**


1. This common judgment is to dispose of five appeals no. 417-421/22. The matters pertain to tax period 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarter of 2014-15; 3<sup>rd</sup> and 4<sup>th</sup> quarter of 2015-16.
2. Initially assessments were framed by the Assessing Authority in respect of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> quarter of 2014-15 on 06/03/2019 and in respect of 3<sup>rd</sup> and 4<sup>th</sup> quarter of 2015-16 on 20/03/2020.
3. Feeling aggrieved by the said assessments, the dealer-appellant filed objections before learned OHA. Learned OHA disposed of the objections vide impugned order dated 17/02/2022.

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4. The dealer-appellant is feeling aggrieved by the impugned order dated 17/02/2022 passed by Learned OHA. Hence these appeals.
5. During pendency of <sup>these</sup> ~~this~~ appeals, dealer filed copy of certain documents which were admittedly not submitted either before the Assessing Authority or before learned OHA.
6. In the given situation, learned counsel for the appellant submits that when the documents produced before this Court, were not submitted to the Assessing Authority or learned OHA, the matter be remanded to learned OHA for decision of the objections afresh.
7. Learned counsel for the Revenue does not oppose the submissions of learned counsel for the appellant on the point of the remand of the matter to learned OHA.
8. In the memorandum of appeals, the dealer has put-forth the ground that Form-9 was not required to be submitted by the dealer and the same is required to be furnished only by the dealer who makes inter-state sales at a concessional rate against statutory Form 'C' and stock transfer against Form 'F'.

The dealer claims to have shown the stock transfers from Ghaziabad to Delhi as sale in 2B. It is case of the dealer that

  
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it filed return<sup>s</sup> unintentionally and by mistake depicting purchase/stock transfer as sales.

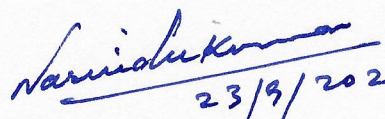
9. The dealer has also claimed itself to be a consignee agent of M/s Affix Pharmaceuticals Ghaziabad (Manufacture of Ayurvedic Oil). Case of the dealer is that the said manufacture having sold/transferred goods to the dealer-appellant against 'F' form, the dealer-appellant could not reverse the process by selling same goods to manufacture.
10. From the copies of assessment framed by Assessing Authority Ghaziabad for the tax period "Annual 2014-15" & "2015-16", it transpires that the dealer – M/s Affix Pharmaceuticals was directed to deposit tax and interest, as the said dealer failed to produce any "F" form in respect of the relevant transactions.  
  
At the same time, Assessing Authority, Delhi has raised the disputed demand of tax and interest for the tax period 2014-15 (1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Qtr.) and tax period 2015-16 (3<sup>rd</sup> & 4<sup>th</sup> Qtr.), on the ground that the dealer-appellant-applicant failed to produce any "F" form in proof of the transaction of stock transfer shown in all these returns for the five tax periods.
11. In the given facts and circumstances, all the five appeals are disposed of with the directions to learned OHA for decision afresh on all the five objections, while providing opportunity of being heard to the dealer, and in accordance with law.

  
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12. Dealer-appellant to appear before learned OHA on 12/10/2022.
13. Copy of the order be placed in the connected files. Copy of the order be supplied to both the parties as per rules. One copy be sent to the connected authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date: 23/09/2022.

  
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(Narinder Kumar)  
Member (J)