

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

Review Application Nos.- 02-04/ATVAT/22  
In Appeals Nos.: 363, 365 & 366/ATVAT/22

Date of Order : 27/09/2022

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

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

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

**ORDER**

1. This common order is to dispose of review applications <sup>no.</sup> 02/22, 03/22 and 04/22 presented on 29/08/2022, seeking review of judgment dated 10/08/2022 passed by this Appellate Tribunal.
2. The matter pertains to 1<sup>st</sup>, 3<sup>rd</sup> and 4th quarter of tax period 2016-17.
3. Vide common judgment dated 10/08/2022, <sup>✓</sup> ~~appeals~~ <sup>✓</sup> ~~Nos.~~ <sup>✓</sup> 363-366/22 pertaining to all four quarters were disposed of and matter was sent to the Assessing Authority with directions in the manner as:

“Accordingly, these appeals are disposed of so as to allow another opportunity to the appellant to present before the

*Narinder Kumar*  
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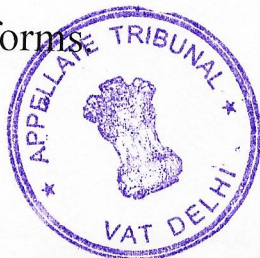


learned Assessing Authority, statutory forms, copies whereof have been filed before this Appellate Tribunal. The Assessing Authority shall subject these forms to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said 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.”

Appellant was accordingly directed to appear before learned Assessing Authority on 29/08/2022.

4. The dealer filed objections before learned OHA challenging notices of default assessments of tax and interest framed by learned Assessing Authority.
5. The four appeals were filed challenging four orders dated 19/01/2022 passed by learned OHA whereby the dealer had been called upon to deposit amount by way of additional tax with interest.
6. In the memorandum of appeals, the dealer claimed to have received various statutory forms i.e. ‘C’, ‘F’, and ‘I’. Grievance of the dealer was that Assessing Authority did not take into consideration the fact that business establishment remained close due to Covid-19.

Same statutory forms were stated to have been produced by the dealer before learned SOHA, during objections. Learned OHA allowed exemption on the said statutory forms produced before him, but uphold the demand as regard the remaining/missing statutory forms.



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7. During pendency of the appeal<sup>s</sup>, the dealer-appellant submitted 55 'C' forms in respect of the four quarters while submitting that same were received subsequent to the disposal of the objections u/s 76 of DVAT Act. Vide order dated 04/07/2022, all the 55 statutory forms i.e. 'C' forms, as depicted in four lists Ex-C1 to C4 were allowed to be placed on record<sup>before</sup> this Appellate Tribunal.
8. In the Review application<sup>s</sup>, dealer-applicant has submitted that in the course of arguments on appeals it was argued that in the impugned order, while giving the figure of missing 'C' forms learned OHA also included the figure of C+ E1 transactions, but this Appellate Tribunal observed in the <sup>judgment.</sup> order that no other issue was raised.

While so alleging in the application<sup>s</sup>, applicant has sought review of the judgment on the ground that the same suffers from inadvertent error in having not decided the other issue in respect of sales against C+E1 forms subjected to Central Sales Tax in 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> quarter.

9. In reply to this application seeking review, learned counsel for the Revenue has submitted that to the best of his re-collection, this issue regarding C+E1 transactions/statutory forms was not argued on behalf of the appellant, at the time of hearing of appeals on merits, even though at the time<sup>of</sup> hearing on the stay applications he had mentioned this issue.



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At the same time, learned counsel for Revenue has submitted that without prejudice to the above said submission, this issue can be taken up by the Assessing Authority independently as per law.

10. In the course of arguments on the review applications, counsel for the appellant has candidly admitted that this is a case of mistake in not raising the issue. He further submitted that the matter regarding consideration of C+E1 transactions/statutory forms be also remanded to learned Assessing Authority, in continuation of the decision dated 10-08-2022 passed by this Appellate Tribunal.
11. In view of the candid admission just now put-forth on behalf of the appellant, even though this is not a case of mistake or error apparent on the face of the record, taking into consideration that the applicant-party cannot be made to suffer due to this inadvertent mistake made while presenting its case, the review applications are disposed of with the directions to learned Assessing Authority in continuation of decision dated 10-08-2022 to consider the claim of the dealer-assessee as regards C+E1 transactions/statutory forms and make assessment afresh in accordance with law, after providing reasonable opportunity to the dealer-appellant of being heard on the said point.
12. Dealer-Assessee to appear before learned Assessing Authority on 10/10/2022.
13. Files of review applications and the appeal files be consigned to the record room after the needful is done by the office. Copy of



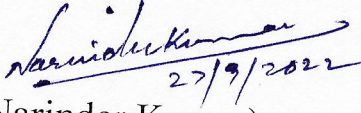
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the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date: 27/09/2022

  
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(Narinder Kumar)  
Member (J)



Review Application No- 02-04/ATVAT/22

In Appeal Nos. 363, 365 & 366/ATVAT/22 / 5602-09

Dated: 28/09/202

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

