

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

Appeal Nos.: 429-431/ATVAT/22
Date of Judgment : 06/10/2022

M/s A. G. Enterprises,
514/ C-8, Sector-8, Rohini,
Delhi-110085.
(through legal Representatives of Sh. Atul
Goel, represented by Smt. Anu Goel, widow.)

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

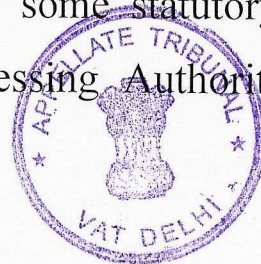
.....Respondent

CA representing the Applicant : Sh. Parveen Jain.
Counsel representing the Revenue : Sh. S. B. Jain.

JUDGMENT

1. On 01/09/2022, the above captioned three appeals came to be presented on behalf of the dealer-assessee.
2. The appeals pertain to tax period – 1st Qtr., 2nd Qtr. and 3rd Qtr. of of 2016-17 respectively.
3. Appeals have been filed challenging impugned order dated 12/05/2022 passed by Learned VATO (Ward 63) – SOHA whereby even though certain exemptions were allowed to the dealer-assessee on production of some statutory “C” forms, demand raised by Learned Assessing Authority as regards

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remaining statutory "C" forms, not produced even before Learned OHA, has been upheld.

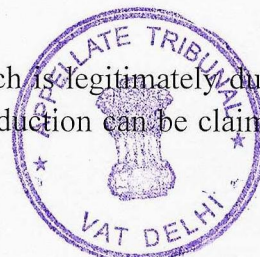
4. The appellant has alleged that some of the statutory forms have been received by the dealer on 25/07/2022, which has led the appellant to prefer these appeals. The appellant is stated to have contacted SOHA in order to submit the 'C' forms so received, but by then SOHA had passed the order.
5. On 21/09/2022, three applications u/s 76(4) of DVAT Act were disposed of and all the three appeals were entertained subject to deposit of Rs. 11,000/- by the dealer-appellant. Dealer has complied with the order u/s 76(4) of DVAT Act by depositing Rs. 11,000/-, by way of pre-deposit.
6. It may be mentioned there that during pendency of the appeal, applications filed to bring on record legal representatives of Sh. Atul Goel, the proprietor, were allowed on 12/09/2022.
7. Further, it may be mentioned here that vide three separate applications delay in filing of the three appeals was condoned.
8. It may also be mentioned here that vide three separate applications, prayer of the appellant to place on record one 'C' form for each quarter i.e. 1st, 2nd and 3rd was allowed, keeping in view the request of the dealer that the same were received subsequently i.e. after the passing of the impugned order by learned SOHA.



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- as noticed above,*
9. On behalf of the appellant/compliance has been made with the order dated 21/09/2022 passed by this Appellate Tribunal u/s 76(4) of DVAT Act, by way of deposit a sum of Rs. 11,000/- by way of pre-deposit.
 10. Arguments heard. File perused.
 11. Learned CA for the appellant submitted that when the dealer-appellant has subsequently received statutory forms i.e. 'C' forms pertaining to 1st, 2nd and 3rd quarter of the year 2016-17, matter be referred to the Assessing Authority for fresh assessment having regard to the settled law on this point.
 12. Learned counsel for the Revenue submits that even though copies of 'C' forms pertaining to 1st, 2nd and 3rd quarter, stated to have been received subsequently, have been furnished before this Appellate Tribunal, this is a case where 'C' forms worth Rs. 97,286/- have not been furnished by the dealer, though declared in the return.
 13. Copies of 'C' forms furnished by the dealer-appellant are Exhibit C-1, C-2 and C-3. These are required to be produced before Assessing Authority for verification and further enquiry in accordance with law.
 14. 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



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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.....”

15. In the light of the judgment of our own Hon'ble High Court in M/s Kirloskar Electric Company Ltd., appellant herein deserves 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 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, filed before this Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law.

16. Appellant is hereby directed to appear before the Assessing Hearing Authority on 18/10/2022.

17. File be consigned to record room. Copy of the judgment be supplied to both the parties as per rules. One copy of order with copies of Ex. C-1 to C-3 be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date: 06/10/2022



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Member (Judicial)