

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

Appeal No.- 436/ATVAT/22
Date of Judgment :19/10/2022

M/s Designers Delight Inc.
102, Dhudhial Apartments,
Pitampura, Delhi-110034.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. Rajnish Goyal, Advocate
with Sh. A. K. Thakur, Advocate.

Counsel representing the Revenue : Sh. S. B. Jain.

JUDGMENT

1. Present appeal has been filed challenging impugned order dated 28/10/2021 passed by learned OHA-Special Commissioner, thereby upholding levy of penalty while framing assessment u/s 33 of DVAT Act due to failure of the dealer-assessee in filing of DP-I.
2. The matter pertains to tax period- Annual 2017-18.
3. Learned counsel for the appellant has submitted that at the relevant time i.e. for the tax period Annual 2017-18, dealer-assessee was not at all required to furnish DP-I, the reason

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being that there was no notification in force like the previous notifications dated 31/12/2015, 01/02/2016 and 01/03/2016.

4. Learned counsel for the Revenue affirms the submission put-forth by learned counsel for the appellant.
5. In view of the above submission, which has not been disputed by learned counsel for the Revenue, and there being no requirement by way of any notification, pertaining to tax period 2017-18 that the dealer-assessee was required to furnish form DP-I, learned Assessing Authority fell in error in imposing penalty u/s 86(14) of DVAT Act.
6. Even otherwise, penalty under sub-section (14) of Section 86 of DVAT Act can be imposed on failure of a person to comply with requirement under sub-section (2) or sub-section (3) of Section 59 of DVAT Act.

In the notice of assessment issued u/s 33 of DVAT Act, there is no mention that the Revenue Authority had ever called upon the dealer to furnish DP-I for any specific purpose/object/requirement. Even on this ground, no penalty could be imposed.

7. In view of the above findings, this appeal is allowed and the impugned assessment framed by learned Assessing Authority

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as well as impugned order passed by learned OHA affirming the assessment, are hereby set aside.

8. File be consigned to record room after needful is done by the office. Copy of the judgment 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: 19/10/2022.

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