

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

Appeal No.: 435/ATVAT/22
Date of Judgment : 21/10/2022

M/s Tamron India Pvt. Ltd.,
Vatika City Point, Unit No. 805-807,
8th Floor, Mehrauli-Gurgaon Rd,
DLF Phase 2, Sector 25,
Gurugram, Haryana 122001.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

CA representing the Appellant : Ms. Bala Yadav.
Counsel representing the Revenue : Sh. S. B. Jain.

JUDGMENT

1. Present appeal came to be presented on 17/10/2022 challenging order dated 15/07/2022 passed by Learned SOHA – VATO (Ward-62).
2. Vide impugned order, learned SOHA upheld demand of Rs. 60,779/- towards additional tax ^{and} /of Rs. 45,085/- towards interest, totalling Rs. 1,05,864/-, having regard to the factum of non-production of statutory forms to the value of Rs. 5,78,846/-.
3. It may be mentioned here that vide impugned order, learned SOHA also granted ^{permissible} exemption from tax to the appellant –

Narinder Kumar
21/10/22



objector keeping in view value of Rs. 7,92,11,475/- of 45 'C' Forms produced there.

4. Feeling aggrieved by the impugned assessment / order dated 15/07/2022, appellant has come up in appeal on the ground that after the disposal of the objections, one 'C' Form worth Rs. 2,81,684/- pertaining to Ist Qtr. of 2017-18 has been received by the appellant.
5. Arguments heard. File perused.
6. It may be mentioned here that vide challan dated 19/10/2022, dealer-appellant has deposited Rs. 55,358/- towards the disputed demand, for being taken into consideration for the purpose of disposal of this appeal.
7. Copy of the 'C' Form stated to have been received by the appellant subsequent to the disposal of the objections by Learned SOHA, is Ex. C-1.
8. Learned Counsel for the appellant submits that there being sufficient cause for non-production of Ex. C-1 before the Revenue Authorities, matter be remanded to Learned Assessing Authority for assessment afresh after taking into consideration the factum of receipt of Ex. C-1.
9. Learned Counsel for the Revenue has gone through the contents of Ex. C-1 and has no objection to the remand of the matter to Learned Assessing Authority for assessment afresh, subject to its verification and proof of sufficient cause for its non-production earlier before the Revenue Authorities.



21/10

10. In the case of **M/s Kirloskar Electric Co. Ltd. v. 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 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....."

11. 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 form, referred to above.

Accordingly, this appeal is disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory form, copy whereof has been filed before this Tribunal.

The Assessing Authority shall subject ^{E.C.1,} ~~these~~ form to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said statutory ~~form~~, ✓ filed before this Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law.

21/10



12. Appellant is hereby directed to appear before Learned Assessing Authority on 09/11/2022.

13. File be consigned to record room. Copy of judgment be supplied to both the parties as per rules. One copy of Ex. C-1 be also sent to the concerned authority. Another ^{of Judgment-} copy/ be displayed on the concerned website.

Announced in open Court.

Date: 21/10/2022

Narinder Kumar
21/10/22
(Narinder Kumar)
Member (Judicial)

