

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

M.A. No.- 596/Cond./22
In Appeal No.- 438/ATVAT/22
Date of Order : 27/10/2022

M/s Kapsons Worldwide

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant : Sh. Sushil Verma.
Counsel representing the Revenue : Sh. P. Tara.

ORDER

1. This order is to dispose of application seeking condonation of delay in filing of appeal u/s 76 of DVAT Act.
2. The appeal came to be presented on 20/09/2022, before the Registry. On checking, the Registry found that there were many deficiencies. Accordingly, deficiency memo dated 23/09/2022 was issued. As per report of the Registry, deficiencies have been removed.
3. The dealer has preferred appeal against order dated 31/03/2018, passed by Learned Additional Commissioner-SOHA. Vide impugned order objections u/s 74 of DVAT Act filed by the dealer-objector have been rejected.
4. Objections were filed against two assessments i.e. vide dated 16/01/2018, framed under Central Sales Tax Act (herein after



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referred to as DVAT Act) and the other assessment dated 31/03/2018, framed under u/s 32 of Delhi Value Added Tax Act (herein after referred to as DVAT Act).

5. In the application, applicant has alleged that appeal should have been filed up to 20/08/2022, but it could not be filed within the prescribed period.
6. As per case of the applicant, firm of Chartered Accountant's M/s Neeraj Bhagat and Company was dealing with the matter. The appellant, after having closed its operations in Delhi, shifted to Uttar Pradesh, the applicant gave approval for filing of appeal on 16/08/2022, but due to circumstances beyond control of the professional, dealing with the matter in the above named CA firm, appeal could not be filed within the prescribed period.

For the aforesaid reasons, the prayer is that appeal be condoned.

7. In support of this application affidavit of ^{Ms.} ~~M/s~~ Ruchika Bhagat, Managing Director of Neeraj Bhagat and Company, has been filed. In her affidavit, ^{Ms.} ~~M/s~~ Ruchika Bhagat has testified that she has been representing the dealer-assessee before the GST Authority for the last many years and is conversant with the facts of this case. As further testified by her, order dated 10/06/2022, passed by OHA was received by the appellant-assessee and sent to her office; that in the second week of July 2022, they contacted the management of the assessee for further approval of filing of appeal but due to disruption of the work at the end of the assessee, approval was given to her verbally on

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16/08/2022, whereupon she contacted Sh. Sushil Verma, Advocate on 18/08/2022. It was on 28/08/2022 that approval was taken from the management of the assessee.

8. As further testified in the affidavit, papers were sent to the above named Advocate but he wanted more documents in the form of paper books and it took time. The paper books were ready on 01/09/2022 and accordingly, delivered to the Advocate on 03/09/2022.
9. Initially, Ms. Ruchika Bhagat, filed an affidavit dated 06/10/2022 testifying that appeal was filed on 07/09/2022, resulting in small delay of 17 days, but when it was pointed out by the Registry that the appeal was actually presented on 20/09/2022, fresh affidavit has been filed.
10. Learned counsel for the appellant submits that Ms. Ruchika Bhagat is Chartered Accountant of the appellant-applicant. Surprisingly, in the affidavit it has nowhere been mentioned that deponent is a CA. There is no reason to disbelieve what learned counsel for the applicant submits at bar as regards the profession of the deponent.
11. In the application, it has been alleged that the applicant has closed its operation in Delhi and shifted to U.P. However, no fresh address of the applicant i.e. of U.P. has been given in the memorandum of appeal or even in the application.

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No document in proof of this fact and as to on which date the appellant-applicant shifted its operation from Delhi to U.P. has been filed.

In view of above factors and keeping in view that there is a delay of 32 days, the prayer for condonation of delay in filing of the appeal is allowed subject to costs of Rs. 1000/- to be deposited as per rules.

Announced in open court.

Date: 27/10/2022.



Narinder Kumar
27/10/22

Narinder Kumar
Member (Judicial)