

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (J)

Appeal No.: 588/ATVAT/13
Date of Judgment: 11/11/2022.

M/s Aarkay Industries,
1806/51, Naiwala,
Karol Bagh, New Delhi- 110005.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Proprietor of the dealer-appellant : Sh. Raj Kishor Bansal.
Counsel representing the Revenue : Sh. M. L. Garg.

Judgment

1. Initially, dealer-appellant filed Appeal Nos. 584-588/13, challenging impugned order dated 01/03/2013 passed by learned OHA-II/ Additional Commissioner-IV & IX & Enforcement II.
2. Vide this judgment Appeal No. 588/13 is being disposed of, the reason being that the other Appeal Nos. 584-587/13 having been dismissed, as not pressed by the dealer-appellant and in view of this submission by learned counsel for the Revenue that same have become non-maintainable because of availing of benefit of Amnesty scheme by the dealer in respect of tax periods i.e. 1st and 3rd quarter of 2008-09.
3. As regards present appeal, dealer is feeling aggrieved by the impugned order passed by learned OHA whereby he has upheld

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levy of penalty of Rs. 50,000/- imposed by learned Assessing Authority vide assessment dated 20/12/2011.

4. Penalty of Rs. 50,000/- was imposed by learned Assessing Authority u/s 33 of DVAT Act because of violation of provision of section 86(14) of DVAT Act, due to non production of stock record by the dealer-appellant required in connection with 4th quarter of the year 2008-09.
5. As already noticed above, learned OHA upheld the levy of penalty finding that dealer had not produced any document in support of his claim.
6. Arguments heard. File perused.
7. It may be mentioned here that despite opportunity, dealer-appellant has put forth his submission on merits, without taking assistance of any CA or Advocate or Counsel. Appeal has been taken up today itself for arguments at the request of the dealer-appellant.
8. Appellant does not dispute non production of stock record before the learned Assessing Authority in connection with 4th quarter of financial year 2008-09. The only submission put forth by him is that the amount of penalty be reduced taking into consideration that he has already availed of benefit under Amnesty scheme and also paid requisite tax and interest for the tax period, including 4th quarter of the year 2008-09.

Learned counsel for the Revenue affirms availing of said benefit by the dealer-appellant.



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9. After the framing of the assessment, pertaining to tax and interest, dealer has admittedly availed of benefit of the Amnesty scheme and also deposited requisite amount of tax and interest for the 1st and 3rd quarter of financial year 2008-09. So, it would be just and proper to reduce the amount of penalty. Accordingly, in the interest of justice, the amount of penalty is reduced from Rs. 50,000/- to Rs. 5,000/- (Five thousand only).

With modification in the quantum of penalty, for the reasons given above, this appeal is disposed of.


Dealer-appellant to deposit the amount of penalty of Rs. 5,000/- within a month.

10. File be consigned to the record room. Copy of 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 : 11/11/2022




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Member (Judicial)