

Appeal No.- 443/ATVAT/22  
Date of Judgment : 17/11/2022

M/s Chitra Cables P. Ltd.,  
8/995, Nehru Gali, Vishwas Nagar,  
Shahdara, Delhi- 110032

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the <sup>Appellant</sup> Applicant : Sh. Dinesh Mohan Sinha.  
Counsel representing the Revenue : Sh. S. B. Jain.

### **JUDGMENT**

1. Dealer-appellant has challenged order dated 15/03/2022 issued by way of notice of default assessment of tax and interest, issued by learned SOHA-VATO (ward- 83), upholding demand of Rs. 17,769/- towards additional tax and Rs. 12,903/- towards interest, as regards tax period- 4<sup>th</sup> quarter *of the year* 2016-17. ✓
2. Learned Assessing Authority had framed assessment u/s 9 (2) of CST Act for the aforesaid tax period, as despite service of notice u/s 59 (2) of DVAT Act neither the dealer nor authorized representative appeared before him, and even no

*Narinder Kumar*  
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document/books of accounts etc. including statutory forms, were produced. That is how, the dealer filed objections before learned OHA. As noticed above, the objections came to be disposed of vide order dated 15/03/2022. Still feeling aggrieved, the dealer has come up in appeal.

3. It may be mentioned here that after disposal of the objections by learned OHA, dealer is stated to have deposited Rs. 3,000/- in view of value of Rs. 96,527/- <sup>on sale of goods</sup>. Appeal has been entertained without any pre deposit.
4. Arguments heard. File perused.
5. In the appeal, the dealer-appellant has alleged that one 'C' form worth Rs. 4,95,765/- pertaining to 4<sup>th</sup> quarter of 2016-17 could not be produced before the Revenue authorities as earlier it was not traceable. Learned counsel for the appellant has pressed this appeal only on this ground and requested that the matter be referred to learned Assessing Authority for fresh assessment taking into consideration the said 'C' form, copy thereof have been placed on record. After having gone through the copy of 'C' form, learned counsel for the Revenue has also put forth same submission.
6. 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 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.....”

7. 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.
8. Accordingly, this appeal is disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory 'C' form, copy whereof Ex. C1 has been filed before this Tribunal. The Assessing Authority shall subject this 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.




It is for the dealer to satisfy as to on which date the said 'C' form was actually received by it. Dealer is also to satisfy about the genuineness of the 'C' form.

9. Appellant is hereby directed to appear before the Assessing Authority on 12/12/2022.
10. File be consigned to record room. Copy of the judgment be supplied to both the parties as per rules. One copy of order with copy of Ex. C-1 be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 17/11/2022

  
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Narinder Kumar  
Member (Judicial)