

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (J)

M.A. No. – 607/ STAY/22

In Appeal No.-444 /ATVAT/22

Date of Order:23/11/2022

M/s. Johnson & Johnson P. Ltd.
C20 Lawrence Road Industrial Area,
New Delhi-110035

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

CA representing the Appellant : Sh. Mayur Bhargav
Counsel representing the Revenue : Sh. S.B. Jain

Order on application u/s 76(4) of DVAT Act

1. In this application, dealer-applicant has prayed that the appeal be entertained without calling upon the dealer to deposit any amount by way of pre-deposit.
2. Matter pertains to assessment year 2015-16.
3. Vide order dated 07/04/2021, learned Assessing Authority raised demand of Rs. 23,63,839/- towards additional tax and Rs. 19,37,053/- towards interest i.e. in total a demand of Rs. 43,00,892/-, due to the reasons recorded in the notice of default assessment of tax and interest framed under Central Sales Tax Act (CST Act).

The demand was raised due to non-furnishing of 'C' forms and 'F' forms.

Narinder Kumar
23/11/2022

4. Feeling aggrieved by the impugned assessment, dealer filed objections before learned SOHA. On 11/10/2021 learned SOHA allowed certain exemptions to the dealer consequent upon furnishing of three 'C' forms, but upheld the levy of tax and interest keeping in view non-production of remaining statutory- 'C' and 'F' forms of the values specified therein.
5. Hence, this appeal.
6. Vide separate order of even date, delay in filing of the appeal has been condoned and applicant directed to deposit costs.
7. Present appeal has been filed as two 'C' forms are stated to have been received by the dealer from the purchasing dealer. Learned CA for the applicant submits that the original two 'C' forms have been received by the applicant in September 2022. He further submits that demand as regards 'F' forms has been met with by the dealer by depositing the tax and interest due. In this regard attention has been drawn to copy of challan dated 02/06/2021, to the tune of Rs. 76,668/-. Counsel for applicant submits that learned OHA did not exclude this amount of Rs. 76,668/- while affirming the levy of tax on remaining 'F' forms.
8. On going through DVAT 38, it is found that the factum of deposit of 76,668/- is specifically mentioned in column no. 16 thereof.
9. Keeping in view the claim of the dealer to have subsequently received two 'C' forms, in total of the value of Rs.


23/11/22

1,84,15,886/- and deposit of Rs. 76,668/- (already deposited) and having viewed the photocopies of the two 'C' forms made available on record, the appeal is admitted. Subject to deposit of Rs. 5,08,226/-, as in respect thereof no statutory form has far been filed by the dealer.

10. It is ordered accordingly.


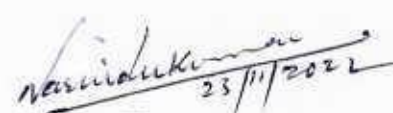
11. At this stage, learned CA for the applicant submits that dealer shall deposit the aforesaid amount of Rs. 5,08,226/-, under the appropriate Head by 30/11/2022 and that the appeal be listed for final arguments for a date subsequent thereto.

In view of this submission, consequent upon deposit of the aforesaid amount of tax with interest by 30/11/2022, this appeal shall be taken up on 06/12/2022 for final arguments.

12. Compliance report to be submitted by the next date. Learned CA for the applicant to apprise counsel for the Revenue regarding deposit.
13. 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: 23/11/2022



Narinder Kumar
Member (Judicial)