

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (I)

Appeal No.: 440/ATVAT/22  
Date of Judgment: 02/12/2022

M/s Konica Minolta Business Solutions India Pvt. Ltd.  
1304, 13<sup>th</sup> Floor, Mohandev building,  
13, Tolstoy Marg, Connaught Place,  
New Delhi-110001.

Appellant

v.

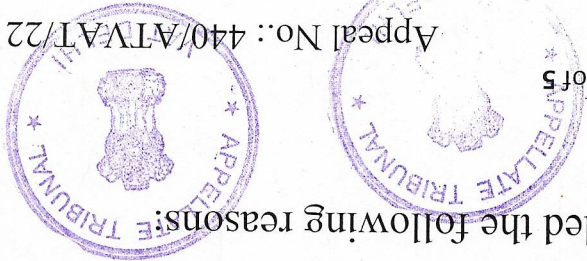
Commissioner of Trade & Taxes, Delhi. Respondent

Counsel representing the Appellant : Sh. Atul Gupta with Ms. Neha Choudhary.  
Counsel representing the Revenue : Sh. P. Tara.

JUDGMENT

1. Present appeal came to be presented on 07/10/2022 while challenging order dated 10/08/2022 passed by learned Objection Hearing Authority (hereinafter referred to as OHA) under Central Sales Tax Act (hereinafter referred to as CST Act). The dealer filed objections before learned OHA challenging default assessment of tax and interest pertaining to the tax period 2015-16, as a demand of Rs. 4,00,718/- by way of additional tax and of Rs. 2,34,832/- towards interest was raised.
2. Record reveals that learned Assessing Authority did not grant any exemption to the dealer-assessee as regards certain statutory forms. In this regard, he recorded the following reasons:

*Narinder Kumar*  
02/12/2022



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3. Learned OHA dismissed the objections filed u/s 74 of DVAT Act.
  4. Hence, this appeal.
  5. It may be mentioned here that vide order dated 31/10/2022, the appeal was entertained without calling upon the dealer-appellant to deposit any amount by way of pre-deposit.
  6. Arguments heard. File perused.
- “Dealer has made central turnover of Rs. 7,50,59,080/-The dealer has made central sale against the C-Forms Rs. 2,01,35,608/- and produced C-Forms value of Rs. 2,00,48,961/- . There is missing C-Form of Rs. 86,647/- taxed @ 3% along with interest. It is mentioned that the dealer has submitted 02 C-Form bearing no. PB/AA/C/0081851 amounting to Rs. 38,25,000/- of M/s. New Sunrise Albums, TIN-03842190918 and C-Form bearing no HR06WC3744794 amounting to Rs. 21,646/- of M/s. E-Office imaging Solutions, TIN-06431941707 in which TIN no of the dealer is not correct.
- The dealer was given opportunity to get them rectified if the forms pertain to the dealer, however, he failed to do the same so both these forms are rejected and taxed @ 10.5% for amount of Rs. 37,50,000/- (taxable value) and @ 3% for amount of Rs. 21,221/- (taxable value) along with interest. The dealer has made stock transfer against F-Form Rs. 5,39,42,294/- . Dealer has produced F-Form amounting of Rs. 5,38,67,652/- . There is missing F-Form of Rs. 74,642/- is taxed @ 5% along with interest.
- The dealer has made central sale against without form of Rs. 9,81,178/- . The dealer has filed all the returns on time. Original statutory forms, except 02 forms mentioned above on which benefit has not been given, are returned back to the dealer after test checking.”

7. While dealing with the point of furnishing of DVAT-41 by the dealer, learned OHA has observed that neither diary clerk nor the Reader to learned OHA brought the notice in Form DVAT-41 to his knowledge before 28/07/2022 i.e. the date when he heard about the said notice from a legal assistant. On this aspect, learned OHA has further observed as under before proceeding to decide the objections on merits:

“Noting the fact that certain officials in the Personal Branch have been grossly negligent in this matter, a detailed note was submitted to the Commissioner, Trade & Taxes vide no. 59/SCTT-III dated 01.08.2022, recommending disciplinary action against the Diary Clerk as well as the then Reader to OHA.

It was further recommended that both these officials should be placed under suspension pending disciplinary proceedings. I may further mention that while the Junior Assistant who was working as a Diary Clerk has been suspended by the Commissioner, Trade & Taxes vide order dated 03.08.2022, a communication has been addressed to Directorate of Social Welfare (Controlling Officer of the then Reader to OHA) vide letter dated 03.08.2022 to place the said Reader under suspension pending disciplinary proceeding.”

8. In the course of arguments, learned Counsel for the appellant has not assailed the above said observations and findings recorded by learned OHA as regards Form DVAT-41. In other words, learned Counsel for the appellant has not challenged the impugned order on the ground that the same was passed after expiry of 15 days period from the date of receipt of notice in the form of Form DVAT-41.



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9. On merits, learned Counsel for the appellant has pointed out that while dealing with the objections on merits, learned OHA did not deal with the objections pertaining to rejection of 'C' Forms. <sup>certam</sup> 'C' Forms issued by M/s New Sunrise Albums and the 'C' Forms issued by M/s E-Office Imaging Solutions.

The only submission of learned Counsel for the appellant is that matter be remanded to learned OHA for decision of the said objection concerning rejection of the above said 'C' Forms. Learned Counsel for the Revenue has no objection to the submission for remand of the matter to learned OHA for decision of the said objection concerning rejection of the above said 'C' Forms.

10. Since while passing the impugned order learned OHA has not decided the objection concerning rejection of the above said 'C' Forms, matter needs to be remanded to learned OHA only in this regard.

11. In the given situation, as consented to by learned Counsel for the parties, this appeal is disposed of and the matter is remanded to learned OHA for decision afresh, in accordance with law, concerning rejection of the above said 'C' Forms issued by M/s New Sunrise Albums and the 'C' Forms issued by M/s E-Office Imaging Solutions, of course, after affording an opportunity of being heard to the dealer-objector.

12. Dealer-objector to appear before learned OHA on 27/12/2022.



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13. File be consigned to the record room. Copy of the judgment 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 : 02/12/2022



(Narinder Kumar)  
Member (Judicial)

*Narinder Kumar*  
2/12/22