

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI

Sh. Narinder Kumar, Member (J)

Appeal No.- 444/ATVAT/22

Date of Judgment : 06/12/2022

M/s Johnson & Johnson P. Ltd.
C-20, Lawrence Road Industrial Area
New Delhi-110035.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

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

Judgment

1. On 02/11/2022, present appeal came to be presented before the Registry challenging order dated 11/10/2021 passed by learned Special Objection Hearing Authority (SOHA) whereby certain exemptions were allowed to the dealer-objector on the basis of three 'C' forms presented during hearing on objections. Because of non-production of remaining statutory 'C' and 'F' Forms of the value specified therein, learned SOHA upheld levy of tax

Narinder Kumar
6/12/2022



- and interest as per assessment dated 07/04/2021 passed by learned Assessing Authority.
2. Vide assessment dated 07/04/2021 learned Assessing Authority had raised demand of Rs. 23,63,839/- towards additional tax and Rs. 19,37,053/- towards interest, due to the reasons recorded therein i.e. non furnishing of 'C' forms and 'F' forms. The assessment was framed under Central Sales Tax Act (CST Act).
 3. Feeling aggrieved by the impugned order passed by learned SOHA, present appeal has been filed.
 4. Vide order dated 23/11/2022, appeal has been entertained on depositing of Rs. 5,08,226/- by way of pre-deposit by the dealer. Cost of Rs. 10,000/- was imposed upon the dealer vide order dated 23/11/2022. Same has also been deposited.
 5. Arguments heard. File perused.
 6. The only submission put forth by learned counsel for the dealer-appellant is that two 'C' forms have been subsequently received by the dealer-appellant from the purchasing dealer. To be specific, these two forms are stated to have been received in September 2022. As regards 'F' forms, the submission on behalf of the appellant is that dealer has already deposited tax and interest as per demand upheld by Learned SOHA.
 7. Copies of the two 'C' forms, the dealer is stated to have received are Exhibit C-1 and C-2. These pertain to tax period of 1st quarter and 2nd quarter of 2015 respectively. These are

6/1/22



accompanied by copies of Annexure-A depicting details of transactions.

8. 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....."

9. 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.
10. Accordingly, this appeal is disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory forms, copies whereof are Exhibit C-1 and C-2 filed before this Tribunal. The Assessing Authority shall subject these forms to verification (including ruling out of any possibility of duplicacy) and also consider, sufficient cause, if any, for non filing of the said statutory forms, filed before this Tribunal, before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law.

6/12/22




11. Appellant is hereby directed to appear before the Assessing Authority on 20/12/2022.

12. File be consigned to record room. Copy of the judgment be supplied to both the parties as per rules. One copy of order be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date: 06/12/2022


(Narinder Kumar)
Member (Judicial)

