

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL DELHI
Sh. Narinder Kumar, Member (J)

M.A. No.:- 626/STAY/22
Appeal No.- 451/ATVAT/22
Date of Order: 22/12/2022

M/s Pfizer Ltd.

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

CA representing the Applicant : Sh. Inderpal Pasricha.
Counsel representing the Revenue : Sh. S. B. Jain.

Order

1. This order is to dispose of application u/s 76(4) of DVAT Act filed by the dealer with appeal filed u/s 76 of the Act. By way of appeal, dealer-applicant has challenged order dated 04/04/2022 passed by learned VATO (Ward-203), whereby learned SOHA has allowed certain exemptions to the dealer-applicant in view of 10 'F' forms produced before him, but at the same time upheld demand of tax of Rs. 10,78,459/- with interest of Rs. 7,56,546/-, in view of the 'C' forms not produced by the dealer.
2. Prior thereto, on 03/11/2021, learned Assessing Authority framed default assessment of tax and interest under Central Sales Tax Act (CST Act), after having issued notice u/s 59(2) of DVAT Act.
3. The default assessment pertains to the tax period - first quarter of the year 2017-18.

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4. While framing assessment, learned Assessing Authority observed that dealer produced before him 8 'F' forms, but failed to produce remaining 'F' forms of the value of Rs. 3,36,74,899/-.
5. Arguments heard. File perused.
6. It is submitted on behalf of the applicant that there are still missing 'F' forms of the value of Rs. 49,73,139/-, which are yet to be received from the other party.
Further, it is submitted that today on behalf of the applicant copies of certain 'F' forms with their list, have been submitted. These forms are stated to have been received subsequent to the passing of the impugned order by learned SOHA.
It is also submitted that in the return, stock transfer of the value of Rs. 53,75,322/- was wrongly shown and that actually no 'F' forms were required to be submitted regarding this turnover.
7. Learned counsel for the Revenue has rightly submitted that this claim regarding wrong reporting in the return about certain stock transfer does not find mention in the default assessment. He further submits that even before learned SOHA this point does not appear to have been raised.
8. On behalf of the applicant, it is submitted that this point was raised before Assessing Authority and also before learned SOHA but it was not discussed.

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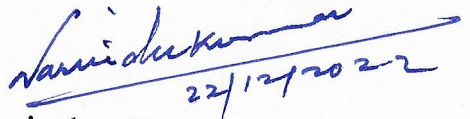


Learned CA submits that so far he has not placed on record response submitted to the Assessing Authority or copy of the objections filed before learned SOHA, raising such claim as regards stock transfer.

9. In the given situation, keeping in view the copy of statutory 'F' forms which were earlier not submitted before the authorities and have been submitted for the first time before this Appellate Tribunal, and also that at no point of time, the dealer-applicant took step for filing of revised return, the applicant is directed to deposit Rs. 3 lakh towards the disputed demand for the purpose of entertainment of this appeal.
10. The amount of pre-deposit to be deposited within ~~the~~ 20 days. Applicant to inform the Registry and also counsel for the Revenue regarding compliance within the given time, so that on the next date i.e. 17/01/2023, appeal is taken up for final arguments. Application u/s 76(4) is disposed of accordingly.
11. Copy of the order be supplied to both the parties. One copy be sent to concerned authority for record.

Announced in open Court.

Date: 22/12/2022.


22/12/2022
Narinder Kumar
Member(J)

