

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

M.A. No. 630/22,632/22,634/22 and 636/22/STAY/22

In Appeal Nos.452-455/ATVAT/22

Date of Order: 28/12/2022

M/s Standard Cartons Pvt. Ltd.
B/101 Okhla Ind. Area
Phase-I, New Delhi-110020.

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Applicant :

Sh. Dinesh Mohan Sinha

Counsel representing the Revenue :

Sh. Manoj Kumar

Sh. S. B. Jain
Sh. M. V. Singh

ORDER

1. This common order is to dispose of four above captioned miscellaneous applications filed u/s 76(4) of Delhi Value Added Tax Act (hereinafter referred to as DVAT Act) with the prayer that the above captioned four appeals be entertained without calling upon the dealer-applicant to deposit any amount by way of pre-deposit.
2. On 23/02/2021, learned Assessing Authority framed default assessments of tax and interest u/s 9(2) of Central Sales Tax Act (hereinafter referred to as CST Act), thereby raising following

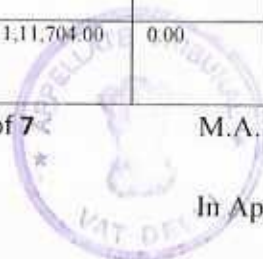
Narinder Kumar
28/12/2022

demands towards tax and interest, in respect of the following tax period:-

S. No	Tax Period	Form Type	Rate of tax Under DVAT Act	Amount of forms not furnished	CST payable against Form(s) not furnished	CST @ 2% already paid, if any	Tax payable	Interest	Total amount due
1	1st Qtr 2016-2017	C	12.50%	1,42,47,533.00	17,80,942.00	2,84,951.00	14,95,991.00	10,50,063.00	25,46,054.00
2	1st Qtr 2016-2017	F	12.50%	21,38,153.00	2,67,269.00	0.00	2,67,269.00	1,87,601.00	4,54,870.00
3	1st Qtr 2016-2017	H	12.50%	40,122.00	50,153.00	0.00	50,153.00	35,203.00	85,356.00
Total:				1,67,86,906.00	20,98,364.00	2,84,951.00	18,13,413.00	12,72,867.00	30,86,280.00

S. No	Tax Period	Form Type	Rate of tax Under DVAT Act	Amount of forms not furnished	CST payable against Form(s) not furnished	CST @ 2% already paid, if any	Tax payable	Interest	Total amount due
1	2nd Qtr 2016-2017	C	12.50%	1,31,93,147.00	16,49,143.00	2,63,863.00	13,85,280.00	9,19,978.00	23,05,258.00
2	2nd Qtr 2016-2017	F	12.50%	49,40,294.00	6,17,537.00	0.00	6,17,537.00	4,10,112.00	10,27,649.00
3	2nd Qtr	H	12.50%	8,93,634.00	1,11,704.00	0.00	1,11,704.00	74,184.00	1,85,888.00

Handwritten signature/initials



	2016-2017						0		0
Total:				1,90,27,025.00	23,78,384.00	2,63,863.00	21,14,521.00	14,04,274.00	35,18,795.00

S. No	Tax Period	Form Type	Rate of tax Under DVAT Act	Amount of forms not furnished	CST payable against Form(s) not furnished	CST @ 2% already paid, if any	Tax payable	Interest	Total amount due
1	3rd Qtr 2016-2017	C	12.50%	63,58,831.00	7,94,854.00	1,27,177.00	6,67,677.00	4,23,380.00	10,91,057.00
2	3rd Qtr 2016-2017	E	12.50%	43,28,557.00	5,41,070.00	0.00	5,41,070.00	3,43,098.00	8,84,168.00
3	3rd Qtr 2016-2017	H	12.50%	4,71,258.00	58,907.00	0.00	58,907.00	37,353.00	96,260.00
Total:				1,11,58,646.00	13,94,831.00	1,27,177.00	12,67,654.00	8,03,831.00	20,71,485.00

S. No.	Tax Period	Form Type	Rate of tax Under DVAT Act	Amount of forms not furnished	CST payable against Form(s) not furnished	CST @ 2% already paid, if any	Tax payable	Interest	Total amount due
1	4th Qtr 2016-2017	C	12.50%	90,87,534.00	11,35,942.00	1,81,751.00	9,54,191.00	5,69,770.00	1,523,961.00

2	4th Qtr 2016- 2017	I	12.50%	43,37,956.00	5,42,245.00	0.00	5,42,245.00	3,23,787.00	8,66,032.00
3	4th Qtr 2016- 2017	II	12.50%	1,77,548.00	22,194.00	0.00	22,194.00	13,253.00	35,447.00
Total:				1,36,03,038.00	17,00,381.00	1,81,751.00	15,18,630.00	9,06,810.00	2,42,5440.00

3.

3. Feeling aggrieved by the impugned assessments, dealer filed objections before learned Special Objection Hearing Authority (hereinafter referred to as SOHA).

4. Vide impugned orders dated 17/09/2021, learned SOHA dispose of the objections allowing certain exemptions to the dealer – objector keeping in view production of certain statutory forms before him and at the same time, taking into consideration non-production of remaining statutory forms, and thereby upholding the following demands, by way of additional tax due and interest, for the following tax periods, :-

Tax Period	Tax	Interest	Total amount
1 st quarter 2016	22,084/-	17,280/-	39,364/-
2 nd quarter 2016	16,041/-	11,945/-	27,986/-
3 rd quarter 2016	28,811/-	20,365/-	49,176/-
4 th quarter 2016	18,140/-	12,151/-	30,291/-



29871 ✓

5. Feeling aggrieved by the impugned order passed by learned SOHA, dealer has filed the above captioned four appeals. The appeals are accompanied by one application each u/s 76(4) of DVAT Act.

6. In M.A. No. (630/22) pertaining to tax period - 1st Qtr. 2016-17, applicant has alleged to have not been granted opportunity to submit 2 'C' forms of the total value of Rs. 5,30,367/-.

At the same time, applicant has alleged to have deposited a sum of Rs. 6,173/- against the pending demand.

7. In M.A. No. (632/22) pertaining to tax period - 2nd Qtr. 2016-17, applicant has alleged to have not been granted opportunity to submit 3 'C' forms of the total value of Rs. 3,23,934/-.

At the same time, applicant has alleged to have deposited a sum of Rs. 6,323/- against the pending demand.

8. In M.A. No. (634/22) pertaining to tax period - 3rd Qtr. 2016-17, applicant has alleged to have not been granted opportunity to submit 2 'C' forms of the total value of Rs. 4,90,015/-.

At the same time, applicant has alleged to have deposited a sum of Rs. 14,111/- against the pending demand.

28/11/22



9. In M.A. No. (636/22) pertaining to tax period - 4th Qtr. 2016-17, applicant has alleged to have not been granted opportunity to submit 4 'C' forms of the total value of Rs. 4,82,799/-.

At the same time, applicant has alleged to have deposited a sum of Rs. 3,656/- against the pending demand.

10. On this application, submission on behalf of the dealer-assessee-applicant is that all the four appeals be entertained without calling upon the dealer to deposit any amount by way of pre-deposit, the reason being that with these appeals additional statutory 'C' forms subsequently received, have been placed on record and the dealer having deposited the balance towards remaining disputed demand of tax and interest in respect of all the four quarters of the year 2016-17.
11. Learned counsel for the Revenue does not dispute the factum of filing of 'C' forms in respect of each quarter, with each appeal and also the factum of deposit of tax and interest pertaining to the statutory forms not so far submitted.
12. 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 then 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....."

13. Having regard to decision in M/s Kirloskar Electric Co. Ltd's case and keeping in view the above said submissions, all these four applications deserve to be allowed. Same are allowed and all the four appeals are entertained without calling upon the dealer to deposit any amount by way of pre deposit.
14. Copy of the order be also placed in the records of the connected three appeals. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date : 28/12/2022.


(Narinder Kumar)
Member (J)

