

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

Appeal Nos.452-455/ATVAT/22

Date of Order: 28/12/2022

*Decision*  
*m*

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

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Appellant :

*Sh. Dimesh Mohan Sinha*

Counsel representing the Revenue :

*Sh. Manoj Kumar* *m*

*Sh. S. B. Jain*

*Sh. M. V. Garg* *m*

**JUDGMENT**

1. This common judgment is to dispose of four appeals filed u/s 76 of Delhi Value Added Tax Act (hereinafter referred to as DVAT Act).
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 demands towards tax and interest, in respect of the following tax period:-

*Narinder Kumar*  
*28/12/2022*

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 2016-	H	12.50%	8,93,634.00	1,11,704.00	0.00	1,11,704.00	74,184.00	1,85,888.00

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	2017								
Total:				1,90,27.02 5.00	23,78,384.0 0	2,63,863.0 0	21,14.52 1.00	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%	63,58,831.0 0	7,94,854.00	1,27,177.00	6,67,677.0 0	4,23,380.0 0	10,91,057. 00
2	3rd Qtr 2016- 2017	F	12.50%	43,28,557.0 0	5,41,070.00	0.00	5,41,070.0 0	3,43,098.0 0	8,84,168.0 0
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:				1,11,58,64 6.00	13,94,831. 00	1,27,177.0 0	12,67,65 4.00	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	1,81,751.0 0	9,54,191.00	5,69,770.0 0	1,523,961.0 0
2	4th Qtr 2016- 2017	F	12.50%	43,37,956. 00	5,42,245.00	0.00	5,42,245.00	3,23,787.0 0	8,66,032.00

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3	4th Qtr	11	12.50%	1,77,548.00	22,194.00	0.00	22,194.00	13,253.00	35,447.00
	2016-			0					
	2017								
Total:				1,36,03.00	17,00,381.00	1,81,751.00	15,18,630.00	9,06,810.00	2,42,5440.00

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 disposed 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 <sup>st</sup> quarter 2016	22,084/-	17,280/-	39,364/-
2 <sup>nd</sup> quarter 2016	16,041/-	11,945/-	27,986/-
3 <sup>rd</sup> quarter 2016	28,811/-	20,365/-	49,176/-
4 <sup>th</sup> quarter 2016	18,140/-	12,151/-	30,291/-



5. Still feeling aggrieved by the impugned order passed by learned SOHA, dealer has filed present four appeals.

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6. In the appeal pertaining to tax period - 1<sup>st</sup> Qtr. 2016-17, appellant alleges to have not been granted opportunity to submit 2 'C' forms of the total value of Rs. 5,30,367/-. At the same time, appellant alleges to have deposited a sum of Rs. 6,173/- against the pending demand.
7. In the appeal pertaining to tax period - 2<sup>nd</sup> Qtr. 2016-17, appellant alleges to have not been granted opportunity to submit 3 'C' forms of the total value of Rs. 3,23,934/-. At the same time, appellant alleges to have deposited a sum of Rs. 6,323/- against the pending demand.
8. In the appeal pertaining to tax period - 3<sup>rd</sup> Qtr. 2016-17, appellant alleges to have not been granted opportunity to submit 2 'C' forms of the total value of Rs. 4,90,015/-. At the same time, appellant alleges to have deposited a sum of Rs. 14,111/- against the pending demand.
9. In the appeal pertaining to tax period - 4<sup>th</sup> Qtr. 2016-17, appellant alleges to have not been granted opportunity to submit 4 'C' forms of the total value of Rs. 4,82,799/-. At the same time, appellant alleges to have deposited a sum of Rs. 3,656/- against the pending demand.
10. Learned counsel for the Revenue does not dispute the factum of filing of 'C' forms in respect of each quarter, with each appeal

  
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and also the factum of deposit of tax and interest pertaining to the statutory forms not so far submitted.

11. 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....."

In the light of the judgment of our own Hon'ble High Court in M/s Kirloskar Electric Company Ltd., there is merit in the contention raised by Counsel for the appellant that the appellant deserves another opportunity to submit statutory forms, referred to above, *before the Assessing Authority.*

Accordingly, these four appeals are disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, statutory forms, copies whereof have been 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




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appellant, while making assessment afresh, in accordance with law.

Appellant is hereby directed to appear before the Assessing ~~Hearing~~ Authority on 09/01/2023.

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

Announced in open Court.  
Date : 28/12/2022.

  
(Narinder Kumar)  
Member (J)

