

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

Review Application No. 09/ATVAT/18

In Appeal No. 165-166/ATVAT/16

Date of Order: 20/01/2023

M/s Rehau Polymers Pvt. Ltd.
B-II 63 Mohan Coperative Inds. Area,
Near Badarpur Metro Station,
New Delhi- 110009

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Applicant : Sh. Umesh Sarwal.
Counsel representing the Revenue : Sh. P. Tara.

ORDER

1. On 08/02/2018, this review application came to be filed by the dealer-appellant in respect of judgment dated 08/01/2018 passed by this Appellate Tribunal.
2. Vide judgment dated 08/01/2018, this Appellate Tribunal dismissed Appeals No. 165-166/ATVAT/2016.
3. It may be mentioned here that the review application was presented on 08/02/2018. The arguments on the review application were heard on 13/04/2018 and order was reserved. Thereafter, vide order dated 29/08/2018, learned Member

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(Judicial) adjourned the review application to 03/10/2018 for arguments afresh. It was directed that learned Counsel for the parties be informed accordingly.

4. This file was put up for the first time on 27/12/2022. In other words, the file never saw light of the day during the period from 03/10/2018 to 26/12/2022.
5. Registry reported that this file was found lying on the top of Almirah No. 9. As further reported by the office, this case was not shown in the cause list dated 29/08/2018 and further that even though this case finds mention in the cause list dated 03/10/2018, a cross was put simultaneously in the cause list. It is also in the report that no order sheet of 03/10/2018 or of any date subsequent thereto is available in the file.
6. Registry has also reported that even though one review application was filed, the concerned official assigned two numbers to the one review application.
7. Accordingly, Court notice was issued to Counsel for the parties for 04/01/2023. Thereupon Sh. Umesh Sarwal, appeared for the applicant and Sh. P. Tara, appeared for the Revenue. At the request of Counsel for the Revenue that he was to check the record to find out if review application was ever disposed of, matter was adjourned for today. Counsel for Revenue has

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submitted that he has not been able to verify from the office if this review application was or was not disposed of. However, learned Counsel for the parties expressed their readiness to advance arguments on the review application today itself.

8. Arguments heard. File perused.
9. Counsel for the applicant has pointed out that rate of tax applicable to subject goods was applied as 12.5%, but as per the order passed by the Commissioner, u/s 84 of DVAT Act, in another matter of the dealer, the applicant-dealer was held liable to pay tax @5% on same goods.

He further submits that in the course of arguments on appeals, he had raised this very contention also which finds mention in para 3 of the judgment dated 08/01/2018, but, while disposing of the appeals, this Appellate Tribunal did not decide this contention raised by him and decided only the other point that is of interest raised by him.

10. As per para 3 of the judgment dated 08/01/2018, issue regarding rate of tax was raised on the basis of order dated 22/12/2016 passed by the Commissioner u/s 84 of DVAT Act. This contention was to be dealt with. Indisputably, this contention does not appear to have been dealt with while passing the judgment. Therefore, this application for review so as to decide

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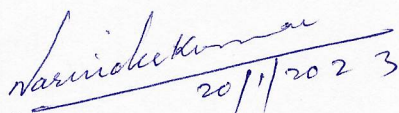


the said contention i.e. as regards rate of tax, in view of subsequent order dated 22/12/2016, needs to be decided for complete and effective adjudication of the appeals.

Accordingly, while disposing of this application, both the Appeals Nos. 165-166/2016 are restored to their original number for the purpose of decision on the above said point i.e. as regards rate of tax in respect of subject goods, in view of Determination Order dated 22/12/2016 passed by the Commissioner u/s 84 of DVAT Act.

11. Copy of the order 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 : 20/01/2023.


(Narinder Kumar)
Member (J)

