

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

Appeal No.: 39/ATVAT/23  
Date of Judgment: 06/03/2023

M/s General Motors Technical Centre India P. Ltd.  
Shed No. 2, K H No. 867,  
Om Nagar School Road  
New Delhi-110048

v.

.....Appellant

Commissioner of Trade & Taxes, Delhi.

.....Respondent

CA representing the Appellant :  
Counsel representing the Revenue :

Ms. Aastha Miglani.  
Sh. S.B. Jain.

**JUDGMENT**

1. By way of present appeal, dealer-appellant has challenged order dated 20/08/2022 passed by learned Special Objection Hearing Authority (hereinafter referred to as SOHA), vide which demand of Rs. 28,68,005/- towards tax and interest, as raised by the Assessing Authority vide default assessment of tax and interest dated 24/02/2022, framed under Central Sales Tax Act (hereinafter referred to as CST Act), has been upheld.
2. Initially, a demand of Rs. 43,99,162/- was raised by learned Assessing Authority due to the reason that the dealer failed to submit "C" forms and "F" forms.  
Feeling aggrieved by this default assessment, dealer filed objections before learned SOHA.

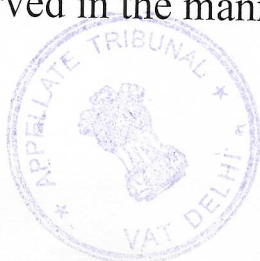
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6/3/2023



3. At the time of objections, dealer submitted 5 “F” forms. Learned SOHA took into consideration the same allowed exemptions to the dealer as regards said 5 forms. As regards “C” forms, as per impugned order, dealer deposited due tax and interest on 05/04/2022.
4. Learned CA for the dealer – appellant submits that subsequently on 10/01/2023, one “F” form of the value of Rs. 19,57,142/- has been received by the dealer.
5. Matter pertains to tax period 1<sup>st</sup> Quarter 2017. The “F” form is stated to have been received by the dealer from one of its own units. In the course of arguments, when it has been enquired as to what steps were taken by the dealer to collect the remaining “F” forms, including the one received on 10/01/2023, no document in proof of any step taken by the dealer has, admittedly, been submitted before this Appellate Tribunal.
6. As regards the remaining “F” forms, which have not so far been received by the dealer, learned CA for the appellant submits that the dealer admits its liability on the basis of non-production of the said remaining “F” forms, and that the dealer has accordingly deposited tax with interest as per the orders passed by learned Revenue Authorities.
7. 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 :

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“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.....”

8. 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 one statutory form, referred to above, copy whereof is marked as Ex. C-1.

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

9. Dealer is hereby directed to appear before learned Assessing Authority on 27/03/2023.



693

10. File be consigned to record room. Copy of the judgment 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: 06/03/2023



*Narinder Kumar*  
6/3/2023  
(Narinder Kumar)  
Member (J)