

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

Appeal No.: 43/ATVAT/23
Date of Judgment: 02/05/2023

M/s. Nature Online Corporation,
C1/17, Rana Pratap Bagh,
New Delhi-110007.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

CA representing the Appellant : Sh. Kailash Chander Anand.
Counsel representing the Revenue : Sh. C. M. Sharma.

JUDGMENT

1. On 13/03/2019, learned Assessing Authority-VATO (Ward-69), while framing default assessment of tax and interest under Central Sales Tax Act (hereinafter referred to as CST Act) raised demand of Rs. 1,95,818/- i.e. Rs. 1,14,532/- towards tax due and Rs. 81,286/- towards interest, for the 1st Quarter of the year 2014-15. The demand was raised as per Form 9 filled in by the dealer i.e. on account of non-furnishing of declaration form.
2. Feeling aggrieved by the above said default assessment, dealer filed objections u/s 74 of DVAT Act. Learned OHA, vide order dated 02/12/2020, disposed of the objections and reduced the demand to Rs. 1,35,663/- towards additional tax due and interest, while granting exemption to the dealer-appellant on the



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basis of 5 "C" Forms of the value of Rs. 4,27,832/- produced before him. During objections, dealer failed to produce "C" Forms to the value of Rs. 6,62,951/-, which led to upholding of the default assessment to this extent.

3. With the appeal, an application seeking condonation of delay of 821 days was filed. Said application stands disposed of.
4. On an application u/s 76(4) of DVAT Act, as ordered, dealer has deposited the amount of pre deposit of Rs. 200/-.
5. Arguments heard. File pursued.
6. With the appeal, dealer submitted copies of two "C" Forms alleging that the same pertained to the 1st Quarter of the year 2014-15, and claiming that the same were received after passing of the order dated 02/12/2020 by learned SOHA.
7. It is case of the dealer that the above said two "C" Forms of the value of Rs. 5,98,534/- and Rs. 77,355/- have been subsequently received by it, as a result, whereof said appeal has been presented.
8. In the case of **M/s Kirloskar Electric Co. Ltd. v. 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 view of the above decision in M/s Kirloskar Electric Co. Ltd's case (supra), the two “C” forms (the copies now marked as ‘A’ and ‘B’) said to have been subsequently received are required to be taken into consideration.

9. Accordingly, this appeal^{is} is disposed of so as to allow another opportunity to the appellant to present before the learned Assessing Authority, the two statutory forms, copies whereof have been filed before this Tribunal.

The Assessing Authority shall subject the two 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 appellant, while making assessment afresh, in accordance with law.

Of course, learned Assessing Authority shall hear the dealer – assessee so as to provide opportunity of being heard.


21/11/23



10. Dealer to appear before learned Assessing Authority on 16/05/2023.
11. File be consigned to record room. Copy of the judgment be supplied to both the parties as per rules. One copy with copies of mark 'A' and 'B' i.e. the copies of two forms, be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date: 02/05/2023.


(Narinder Kumar)
Member (Judicial)

