

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

Appeals Nos. 51-54/ATVAT/23
Date of Judgment: 03/05/2023

M/s Nav Durga Light,
Shop No. 1/9348A, Pratapura,
Rohtas Nagar, Delhi-32.

..... Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Applicant : Sh. Ramu Sahani.
Counsel representing the Revenue : Sh. S.B. Jain.

Judgment

1. Appellant filed above captioned four appeals accompanied by 4 applications seeking condonation of delay of 210 days in filing the same. Said applications were disposed of and delay was condoned subject to costs. Dealer has complied with the order regarding costs.
2. The dealer is a proprietorship concern.
3. Vide impugned order dated 26/08/22, learned SOHA disposed of objections u/s 74 of DVAT Act. The objections were filed while challenging assessments under Central Sales Tax Act (hereinafter



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referred to as CST Act). Said assessments were framed due to non-submission of statutory forms.

In respect of tax period- 1st quarter 2013, dealer-assessee failed to furnish before Assessing Authority statutory forms worth Rs. 53,800/-;

In respect of tax period- 2nd quarter 2013, dealer-assessee failed to furnish before Assessing Authority statutory forms worth Rs.14,979/-;

In respect of tax period- 3rd quarter 2013, dealer-assessee failed to furnish before Assessing Authority statutory forms worth Rs. 49,191/- and

In respect of tax period- 4th quarter 2013, dealer-assessee failed to furnish before Assessing Authority statutory forms worth Rs. 4,162/-.

The objections filed by the dealer against the said assessments were partly allowed, but the demand of tax and that of interest was increased.

4. Hence, these 4 appeals.
5. Arguments heard. Files perused.
6. As noticed above, tax was levied by learned Assessing Authority on the value of the missing statutory forms, "which were not produced before him". Tax was levied @10.5% with interest.

But, learned OHA, even though rectified the said order by reducing the rate of tax from 10.5% ~~10.5%~~ ^m created demands on the entire turnover, in place of the value of the 'C' forms, which were not produced even before him. The contention is that the impugned order passed by learned OHA deserves to be set aside to this extent i.e. in creating demands on the entire turnover instead of on the value of missing 'C' forms, which were not produced even before learned OHA.

7. Learned counsel for the Revenue also submits that order passed by learned OHA suffers from ^{above} said defect, pointed out by learned counsel for the appellant.
8. Indisputably, the tax was to be levied as per the relevant entry in IIIrd Schedule of DVAT Act on the value of the statutory forms which were not produced even before learned OHA, and not on the entire turnover represented by the dealer.
9. In the given situation, all these appeals are disposed of ^{vide this common judgment.} and while modifying the orders passed by learned OHA, matters are referred to learned Assessing Authority to make recalculations of tax and interest, as rectified by learned OHA vide impugned order, while taking into consideration the value of only those 'C' forms which were not produced even before learned OHA, and then issue fresh default assessment of tax and interest under CST Act. Of course, learned Assessing shall provide reasonable opportunity to the dealer-appellant of being heard.



10. Dealer to appear before learned Assessing Authority on 17/05/2023.

11. 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 : 03/05/2023.


3/5/2023

(Narinder Kumar)
Member (J)

