

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

Appeal No. 49/ATVAT/23
Date of Judgment: 26/05/2023

M/s. Shashi Dhawal Hydraulics Pvt. Ltd.,
Caxton House 2E, Rani Jhansi Road,
Jhandewalan Extension,
New Delhi-110055.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

Counsel representing the Appellant : Ms. Shilpi Dewan.
Counsel representing the Revenue : Sh. M. L. Garg.

JUDGMENT

1. Present appeal came to be presented challenging order dated 18/01/2023 passed by Learned Special Objection Hearing Authority (hereinafter referred to as SOHA).
2. Vide impugned order, learned SOHA allowed certain exemptions to the dealer – objector on account of production of 106 ‘C’ forms and upheld the default assessment of tax and interest in respect of the statutory forms not produced by the dealer – objector even during pendency of the objections proceedings.

Narinder Kumar
26/5/23

Page 1 of 5



Appeal No. 49/ATVAT/23

3. Default assessment of tax and interest was framed on 17/03/2022 by learned Assessing Authority due to the reason that dealer – assessee failed to produce ‘C’ forms, ‘F’ forms and ‘H’ forms. Said assessment was framed under Central Sales Tax Act. Dealer – assessee felt aggrieved by the said assessment and as such filed objections under section 74 of Delhi Value Added Tax Act (hereinafter referred to as DVAT Act).
4. Still feeling aggrieved by the order passed by learned OHA, dealer has come up in appeal before this Appellate Tribunal.
5. Arguments heard. File perused.
6. Learned counsel for the appellant has submitted that 5 “F” Forms, copies of which have been filed on record of this Appellate Tribunal, were misplaced by the accountant of a unit of the dealer and it was only on inquiry by the concerned officer that the accountant traced out the said forms and transmitted the same to the local accountant of the dealer.
7. In the grounds of appeal, dealer alleged that “C” and “F” forms are available with it i.e. appellant and same shall be produced, as and when desired by this Appellate Tribunal, and further that the said forms may be admitted. In the memorandum of appeal, dealer further alleged that statutory forms, available with him, were obtained subsequently. However, in the application

nh
20/5



submitted during pendency of the appeal seeking production of "F" Forms, dealer claimed that these 5 Forms were available with the Accountant and that due to his mistake same could not be produced before the Revenue Authorities.

8. It may be mentioned here that during pendency of the appeal, on behalf of the dealer 5 "F" forms pertaining to 1st Quarter of 2017-18, came to be produced.
9. Learned counsel for the Revenue has submitted that from the date of issuance, the above said forms appear to have been issued in the year 2019 i.e. even prior to the framing of the assessment by the Assessing Authority, but the appellant has not furnished any sufficient cause for their non-production. Vide separate order of even date, dealer has been burdened with costs of Rs. 1,500/- for delay in production of the said forms, and counsel for the appellant has assured that the costs shall be deposited by tomorrow.
10. 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.....”

11. 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 statutory forms (today marked as Mark A-1 to A-5), referred to above.
12. Accordingly, this appeal is 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) before allowing the concessional rate of tax to the appellant, while making assessment afresh, in accordance with law.
13. Appellant is directed to appear before the Assessing Authority on 08/06/2023.
14. File be consigned to record room. Copy of the judgment be supplied to both the parties as per rules. One copy of judgment

26/5



with copies of statutory forms Mark A-1 to A-5 be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date :26/05/2023

Narinder Kumar
26/5/2023
(Narinder Kumar)
Member (J)

