

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

Appeal No. 69/ATVAT/2023  
Date of Judgment: 31/05/2023

M/s Hindware Home Retail Pvt. Ltd.  
02/15, WHS Kirti Nagar Timber Market  
New Delhi- 110005.

.....Appellant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

CA representing the Appellant : Sh. R.P. Varshney  
Counsel representing the Respondent : Sh. P. Tara, Proxy Counsel.

**Judgment**

1. By way of present appeal, dealer-assessee-appellant has challenged order dated 13/03/2023 passed by learned SOHA, under Central Sales Tax Act (hereinafter referred to as CST Act) whereby, on account of non-furnishing of statutory forms of the value of Rs. 7,50,760/-, demand of tax and interest came to be upheld.
2. Notice of default assessment of tax and interest was issued by the Assessing Authority-AVATO (Ward-109, Special Zone) on 25/03/2021 in respect of tax period 1<sup>st</sup> Quarter of the year 2016-17, thereby raising demand of tax of Rs. 98,170/- and of interest to the tune of Rs. 70,118/-, the reason being that the dealer-

  
31/5/23



assessee failed to produce "F" Forms concerning concessional sales.

3. Feeling dissatisfied with the default assessment, the assessee filed objections before learned SOHA.
4. Since learned SOHA upheld the demand of tax and interest as regards "F" Forms not produced even before him, dealer has filed present appeal.
5. Vide separate order of even date, the appeal has been entertained waiving condition of deposit by way of pre-deposit.
6. Arguments heard. File perused.
7. On behalf of the dealer-appellant, it is submitted that 3 "F" Forms, copies whereof have been made part of the record from page 10 to 16, were earlier not received by the dealer from its branch at Gurugram, and as such, the same could not be produced before the Assessing Authority or before learned SOHA, and further that the same be taken into consideration so that exemption from tax is allowed to the dealer.
8. On perusal of the 3 "F" Forms, it transpires that these bear the date of issuance as 20/03/2023. Learned SOHA passed the impugned order on 13/03/2023. This goes to show that these Forms had not been issued by the competent authority even during pendency of the objections.
9. In the case of **M/s Kirloskar Electric Co. Ltd. v. Commissioner of Sales Tax**, 1991 Vol. 83 of Sales Tax Cases,


31/5

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....."

10. As noticed above, the dealer has furnished "sufficient cause" for non-furnishing of the 3 "F" Forms. In the given situation, the appeal is disposed of and matter is remitted to learned Assessing Authority with the direction to grant an opportunity to the dealer-assessee to produce the above said "F" Forms, copies whereof have been marked as mark C1, C2 and C3, and frame assessment after due verification of the said Forms ( including the point of duplicacy or genuineness).
11. Dealer to appear before learned Assessing Authority on 09/06/2023.
12. File be consigned to the record room. Copy of the judgment be supplied to both the parties as per rules. One copy of judgment with copies of 3 "F" Forms to be sent to the competent authority. Another copy be displayed on the concerned website.

Announced in open Court.  
Date : 31/05/2023

  
(Narinder Kumar)  
Member (J)

