

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

Review Application No. 08/2023  
In Appeals Nos. 44-48/ATVAT/23  
Date of Order: 30/06/2023

Commissioner of Trade & Taxes, Delhi.

.....Applicant

v.

M/s D C Automobile,  
195/16 Prem Gali, Punja Sharif,  
Kashmiri Gate,  
New Delhi-110006.

.....Respondent

Counsel representing the Applicant : Sh. P. Tara.  
Counsel representing the Respondent : Sh. R. C. Kapoor.

**Order**

1. On 25/04/2023, appeals No. 44-48/ATVAT/23 filed by the dealer-respondent herein, were disposed of by this Appellate Tribunal and the matter was remanded to learned SOHA, by observing in the paras No. 10-14 as under:-

"10. Once the above said objection regarding non - service of notice u/s 59(2) of DVAT Act was raised by the dealer - objector before learned SOHA in the objections u/s 74 of the DVAT Act, it was for learned SOHA to decide the said objection and record his specific finding if notice u/s 59(2) of DVAT Act was or was not duly served upon the dealer - assessee, before framing of the impugned assessments, in view of the directions contained in the above said

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circulars/orders and about its effect. But, the fact remains that no such finding has been recorded by learned SOHA in the impugned order while deciding said objection.

11. Similarly, certain other objections were raised by the dealer - objector before learned SOHA, as find mentioned in the document available at page No. 8 & 9 of the Memorandum of Appeal. Learned counsel for the appellant submits that the dealer does not press objections No. 7, 8 and 9 raised before learned SOHA. He further submits that learned SOHA was required to decide the other objections from serial No. 3 to 6 as well, in addition to the objections pertaining to non - service of notices u/s 59(2) of DVAT Act. Since the objections from serial No. 2 - 6 have not been decided by learned SOHA, the matter requires to be remanded to learned SOHA for decision afresh.
12. When it has been brought to the notice of learned counsel for the appellant that the matter is required to be remanded to the learned SOHA, learned counsel for the appellant has no objection to the remand of the matter to learned SOHA.
13. In view of the above discussion, all these five appeals are disposed of and matter is remanded to learned SOHA for decision afresh on the above said points, having regard to the decisions cited on behalf of the appellant and the orders issued by the Commissioner, VAT, while affording reasonable opportunity of being heard, to the dealer - objector.
14. Dealer to appear before learned SOHA on 11/05/2023."

2. Matter pertains to all the four quarters of the year 2016-17 and the first quarter of 2017-18.

3. After disposal of the appeals, on 22/06/2023, on behalf of the Revenue, review application No. 08/23 came to be presented.

4. The only ground seeking review of the judgment dated 25/04/2023 is that SOHA is empowered to decide matters pertaining to statutory forms and 2A-2B Mismatch. In this regard, reliance has been placed on an office order dated





31/01/2014 issued by the then Assistant commissioner (HR).

5. In the application, it has been specified that in the matters, as regards statutory forms produced before him, learned SOHA has already granted requisite relief to the appellant-dealer, and as such, no point remains to be decided by learned SOHA.
6. Further, it has been candidly admitted on behalf of the applicant that the fact that SOHA has limited powers i.e. only in respect of statutory forms and 2A-2B mismatched matters, could not be pointed out by the counsel representing the parties.
7. Counsel for respondent - M/s DC Automobile, has submitted that he has no objection to the review of the judgment dated 25/04/2023 while remanding the matters to concerned learned OHA i.e. Jurisdictional OHA, in place of SOHA, to whom the matter was remanded as per judgment dated 25/04/2023.
8. Since learned SOHA had adjudicated the issues as regards statutory forms, and no adjudication could be made by him on the remaining issues, which are to be dealt with by learned OHA, the application seeking review of the

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judgment dated 25/04/2023 deserves to be allowed, as submitted by both the sides.

9. As a result, the review application is allowed and for the reasons recorded in the judgment dated 25/04/2023 vide which all the five Appeals No. 44-48/ AT VAT/2023 already stand disposed of, modifying the said judgment, matters are remanded to the concerned Jurisdictional OHA for decision afresh (instead of learned SOHA as directed earlier) on the issues already pointed out in the said judgment, having regard to the decisions cited on behalf of the appellant – M/s DC Automobile and orders issued by the Commissioner, VAT, while affording reasonable opportunity of being heard, to the dealer - objector - appellant. Review application is disposed of accordingly.
10. Dealer – appellant to appear before jurisdictional OHA on 17/07/2023.
11. Copy of the order be supplied to both the parties as per rules. One copy be placed in the files of the connected appeals. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open court.

Date : 30/06/2023



*Narinder Kumar*  
30/6/2023  
(Narinder Kumar)  
Member(J)



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in Appeal no. 44-48/ATVAT/23 | 633-638

Dated: 30/08/23

Copy to:-

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|----------------------|----------------|
| (1) VATO (Ward-73)   | (4) Dealer     |
| (2) Second Case File | (5) Guard File |
| (3) Govt. Counsel    | (6) AC(L&J)    |

REGISTRAR

