

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL, DELHI

Sh. Narinder Kumar, Member (Judicial)

M.A. No. 117-119 & 148/COND/2023
In Appeals No. 66-68 & 70/ATVAT/2023
Date of Order: 07/07/2023

M/s Honeywell International India Pvt. Ltd.
17, Ground Floor, Amrit House,
Sant Nagar, East of Kailash
New Delhi-110065.

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Applicant : Sh. Dharmendra Anand.
Counsel representing the Revenue : Sh. M.L. Garg.

ORDER

1. Each appeal captioned above is accompanied by an application i.e., M.A No. 117-119 & 148/COND./2023, seeking condonation of delay in filing the same.
2. Dealer-applicant has challenged orders dated ^{17/03/22,} 23/06/2022, 23/06/2022 and 26/10/2022, whereby demands towards tax and interest on account of non-furnishing of statutory forms have been upheld by learned SOHA.
3. Initially, default assessments of tax and interest under Central Sales Tax Act (hereinafter referred to as CST Act) came to be framed by learned Assessing Authority on different dates.

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4. Under section 76(2) of DVAT Act, 2004, subject to the provision of section 77 of the Act, no appeal shall be entertained unless it is made within 2 months from the date of service of the decision appealed against.
5. Here, so far as Appeals No. 66 & 67/ATVAT/2023 are concerned, applicant has prayed for condonation of delay on the ground that the impugned order passed by learned SOHA was served on 23/06/2022 on the online portal, and further that the department did not intimate the dealer about the impugned order, and as such delay of **233 days** has occurred in respect of said 2 appeals.
6. So far as Appeal No. 68/ATVAT/2023 is concerned, impugned order dated 26/10/2022 passed by learned SOHA was served on the same day on the online portal, and further that the department did not intimate the dealer about the impugned order, and as such delay of **108 days** has occurred.
7. So far as Appeal No. 70/ATVAT/2023 is concerned, impugned order dated 17/03/2022 passed by learned SOHA was served on the same date on the ^{DVAT} online portal, and further that the counsel who represented the applicant company before learned SOHA did not deliver the copy of the said order, and as such delay of **372 days** has occurred.
8. Counsel for applicant has submitted that the dealer could not file appeals within the prescribed period because of transfer of its employees from one department to the other and that when the



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officer, who ultimately took over Indirect Tax Department, as its head, she took up the matter, and that is how, the appeals came to be filed. Therefore, the contention is that the delay in filing of the appeals be condoned.

9. Admittedly, there is delay of 233 days in filing of Appeal No. 66/23 and 67/23; delay of 108 days in filing of Appeal No. 68/23; and delay of 372 days in filing of Appeal No. 70/23.
10. Applicant has filed affidavit dated 15/06/2023 i.e., of Ms. Rinku Nehra, its authorized signatory. Therein, she has testified that there were job profile changes in the company, including its Indirect Tax Department and further that she came to know about of the impugned demands after she so joined the Indirect Tax Department, and then took steps for the purpose of filing of appeals.
11. Counsel for the respondent has rightly pointed out that no document has been filed by the appellant-applicant depicting transfers/changes in the job profiles including the Department of Indirect Tax, of the applicant.
12. Ms. Rinku Nehra has nowhere testified in her affidavit as to on which date she joined the Indirect Tax Department of the company and to on which date she came to know about the impugned demands.
13. It is significant to note that in the applications, applicant admits service of impugned orders on the given dates, on DVAT portal. Once the service of the impugned orders is admitted, it was for



the applicant to satisfy by proving sufficient cause and explaining as to which of the officials was negligent in not taking note of the said orders and as to what action was taken by the said applicant company against such officials of the Indirect Tax Department.

14. Counsel for the applicant submits, in the course of arguments, that actually job profiles changes took place keeping in view that the Indirect Tax Department was not being managed properly by the then officials. As already noticed, no document has been filed on behalf of the applicant to suggest that due to negligence of ^{such and such} the officials any disciplinary action was taken against the said officials.
15. At the stage, when the order is being dictated, counsel for the applicant submits that for the non-diligence on the part of the officials, which led to delay in filing of appeals, the applicant company is ready to deposit costs of Rs. 5,000/- in case of Appeal No. 68/23; costs of Rs. 10,000/- each in case of Appeals Nos. 66/23 and 67/23; and costs of Rs. 15,000/- in case of Appeal No. 70/23 and that delay in filing of these appeals be condoned, in the interest of justice, subject to said costs.
16. In view of the above discussion and also taking into consideration the fact that the applicant company could not file appeals within the prescribed period because of negligence of its staff which was posted in the Indirect Tax Department, all the 4 applications are disposed of and delay in filing of the said 4



appeals is condoned, subject to deposit of costs of Rs. 5,000/- in case of Appeal No. 68/23; costs of Rs. 10,000/- each in case of Appeals Nos. 66/23 and 67/23; and costs of Rs. 15,000/- in case of Appeal No. 70/23. All the 4 applications are disposed of accordingly.

17. Costs to be deposited within 15 days. Counsel for the applicant submits that the said amount of costs shall be deposited within 15 days.
18. Copy of the order be supplied to both the parties as per rules. Another copy be displayed on the concerned website.

Announced in open Court.
Date: 07/07/2023



Narinder Kumar
21/7/2023
Narinder Kumar
Member (J)

M.A No. 117-119 & 148/COND/23

In Appeal no. 66-67 & 70/ATVAT/23/651-656

Dated: 7/7/23

Copy to:-

(1) VATO (Ward-206)

(2) Second Case File

(3) Govt. Counsel

(4) Dealer

(5) Guard File

(6) AC(L&J)

REGISTRAR

