

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

M.A. Nos. 355-³⁷⁴~~360~~/2023 ✓
In Appeal Nos. 121-130/ ATVAT/ 2023
Date of Order: 10/11/2023

M/s Larsen & Toubro Ltd.,
61, IFCI Tower, Nehru Place,
New Delhi - 110019

.....Appellant

V.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

Counsel representing the Applicant : Sh. C. M. Sharma.
Counsel representing the Dealer : Sh. Atul Gupta.

ORDER

1. This common order is to dispose of 10 applications filed by the Revenue raising objection to the maintainability of the 10 appeals No. 121-130/ ATVAT/ 2023.
2. Appeals have been filed challenging impugned orders dated 05/07/2023 passed by learned Objection Hearing Authority (hereinafter referred to as OHA), whereby due to non-production of certain statutory forms, dealer has been directed to deposit additional tax due, with interest, as specified therein.

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3. In each application, it has been alleged that the appeals have not been signed and verified by a competent person, and as such, the same deserve to be dismissed being not maintainable.
4. Arguments heard. File perused.
5. The 10 appeals have been signed and verified by Sh. Utpal Kumar Ghosh, stated to be the Authorised Representative of the dealer as per Power of Attorney dated 30/12/2014. ✓
6. In its reply to the application of the Revenue, dealer has pleaded that memorandum of appeals have been signed and verified by Sh. Utpal Kumar Ghosh, Manager- Corporate (Indirect Taxation) of the said company-dealer, he having been so authorised vide power of attorney dated 30/12/2014 executed by Sh. R. Shankar Raman, its Whole-time Director, in exercise of powers delegated to him vide Board Resolution dated 07/11/2014.
7. As is available from the note dated 04/10/2023 available at the bottom of Resolution dated 07/11/2014, said Resolution was superseded by Board Resolution dated 30/09/2023.

As regards the subsequent resolution passed by the Board of Directors of the dealer on 30/09/2023, in the reply, it has been pleaded that even though words “in supersession of all the earlier resolutions in this regard”, have been mentioned therein,

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the Whole-time Director having already been authorised as per resolution dated 07/11/2014 continued to have said powers.

Counsel for dealer-applicant has submitted that ~~since~~[✓] Sh. R. Shankar Raman being in the post of Whole-time Director of the dealer ever since 01/10/2011, the resolution dated 30/09/2023 has not affected his powers, and in the said resolution only some names have been deleted and others added.

Accordingly, it has been urged that filing of the appeal by Sh. Utpal Kumar Ghosh, in view of the authorisation by the ~~Whole-~~[✓]time Director to do so, is valid and legal.

Reference has been made to Annexure-I i.e. letter dated 02/11/2023 issued by the Whole-time Director, clarifying that the authority delegated by him (the Whole-time Director) always vested in Sh. Utpal Kumar Ghosh, and further that he ratifies all the acts done by Sh. Utpal Kumar Ghosh in presenting the appeals. Accordingly, it is submitted that the appeals have been properly filed.

8. Having regard to the copy of resolution dated 07/11/2014 and the Power of Attorney dated 30/12/2014 executed by Sh. R. Shankar Raman, Whole-time Director of the dealer in favour of Sh. Utpal Kumar Ghosh to deal with all matters relating to VAT and other taxes, and to appear and act before the concerned Tax Authority including under VAT Act, it can safely be said that

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Sh. Utpal Kumar Ghosh was authorized to sign and verify present appeals. Accepting the submission put forth by counsel for the dealer that the authority given to Sh. R. Shankar Raman, Whole-time Director, vide resolution dated 07/11/2014 was not withdrawn while passing subsequent resolution dated 30/09/2023, Sh. Utpal Kumar Ghosh still continues to have the authority to sign and verify [&] ~~and~~ institute the 10 appeals.

9. As regards the clarification dated 02/11/2013 issued by Sh. R. Shankar Raman, presented on 06/11/2023, same is not happily worded, as in its fourth paragraph, he has expressed that this Appellate Tribunal raised doubts about the power of Sh. Utpal Kumar Ghosh as regards the signing of the appeals. In this regard, it needs to be mentioned that when objection was raised by the opposite party to the maintainability of the appeals on the aforesaid ground, the same was required to be decided in accordance with law and as such the Whole-time Director should not have expressed whatever ^{understood or} he thought, faced with the situation and the objection.

Surprisingly, vide the above mentioned clarification, the Whole-time Director has also tried to justify the 10 appeals earlier filed but got dismissed as having been withdrawn due to the formal defect, same having not been filed through a competent person.

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Once earlier appeals were got dismissed as having been withdrawn seeking liberty to file fresh ones, the Whole-time Director could not put forth any clarification regarding authorisation to Sh. Gurinder Pal Singh to sign and verify these appeals. Counsel for the dealer also does not approve the said justification put forth by the Whole-time Director on this point and submits that that is why in the reply to this application, he has not relied on said part of ^{the} clarification put forth by the Whole-time Director, so far as the institution of the previous 10 appeals by Sh. Gurinder Pal Singh is concerned.

10. Since all these 10 appeals have been duly instituted after having been signed and verified by a competent person – authorized representative of the dealer, all these 10 applications are hereby dismissed.
11. Copy of the order 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 : 10/11/2023



Narinder Kumar
10/11/2023
(Narinder Kumar)
Member (J)