

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

M.A. No. 351-360/2023
Appeal No. 121-130/ATVAT/2023
Date of Order: 07/12/2023

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

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi.

.....Respondent

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

ORDER

1. This common order is to dispose of above captioned 10 applications filed by the assessee-applicant with 10 Appeals No. 121-130/ATVAT/2023.
2. Prayer in the applications is that the appeals be entertained without requiring the assessee-applicant to deposit any amount by way of pre-deposit u/s 76(4) of Delhi Value Added Tax Act (hereinafter referred to as DVAT Act), towards the disputed demands of tax and interest.
3. Arguments heard on the applications. File perused.

Narinder Kumar
7/12/2023



4. On the applications, the only submission put forth by counsel for the applicant is that claim of the dealer for refund of Rs. 41,43,24,878/- is pending with the Department and that the disputed demands raised in all these 10 matters towards tax and interest be adjusted against the said amount, and accordingly, the appeals be entertained without calling upon the dealer-applicant to deposit any amount by way of pre-deposit. In support of this submission, counsel for the applicant has referred to Annexure 'F', Refund Status pertaining to tax period - 4th Quarter 2013, wherein a sum of Rs. 41,43,24,878/- finds mention in the fifth column of the table.
5. Counsel for the respondent has opposed the only submission put forth by counsel for the applicant. Counsel for respondent has argued that in absence of any ^{or decision on the point} order/of refund or evidence, it cannot be said that any such amount is due to the dealer-applicant by way of refund, and as such, there is no question of adjustment of any such amount against the disputed demands. Counsel for the respondent has referred to the assessments framed and submitted that when the applicant has failed to produce any statutory form before this Appellate Tribunal, this is a case of admission by the dealer-applicant of the liability towards disputed demands of tax and interest, and as such, the dealer-applicant must deposit the entire amount of the disputed demands before these 10 appeals are entertained.

23/12



6. Appeals have been filed challenging order dated 05/07/2023 passed by learned Objection Hearing Authority (hereinafter referred to as OHA) whereby demands of tax and interest under Central Sales Tax Act (hereinafter referred to as CST Act) have been upheld to the extent the assessee failed to submit statutory forms i.e., 'C' forms, C+E1 forms and E1 forms, in respect of the period- Annual-2012, Annual-2013, all the four quarters of the year 2014-15 and all the four quarters of the year 2016-17.
7. Initially, Assessing Authority of the concerned Ward-108 (Special Zone) framed assessments of tax and interest under CST Act raising demands of additional tax due and interest, on the ground that the assessee failed to submit ^{required} statutory forms. Said assessments were challenged by the assessee before learned OHA by way of objections. Learned OHA granted certain exemptions to the assessee keeping in view submission of some statutory forms at the time of objections, but as regards remaining statutory forms- which were not produced- he upheld the assessments.
8. Admittedly, dealer-applicant has not submitted any statutory forms i.e., 'C' forms, C+E1 forms and E1 forms, in respect of the period- Annual-2012, Annual-2013, all the four quarters of the year 2014-15 and all the four quarters of the year 2016-17. Absence thereof, prime facie, shows liability of the dealer to pay the tax and interest as upheld by learned OHA.

Handwritten signature/initials



9. As regards the only submission put forth on behalf of the applicant that the amount of refund claimed by it in Fourth Quarter of 2013, counsel for the respondent has rightly submitted that the applicant has not placed on record any material to suggest that the applicant has been held entitled to any such amount by way of refund. Simply because claim of the applicant seeking refund is pending, there is no question of any adjustment from any such expected amount against the present demands of tax and interest under challenge.
10. In the given facts and circumstances, when the applicant has not submitted any statutory form before this Appellate Tribunal, after the passing of the impugned order, I find that this is a case where applicant – assessee company should be called upon to deposit, by way of pre-deposit 20% of the ^{demand of} impugned ^{in each appeal} tax and interest, under section 76(4) of DVAT Act, for the purposes of entertaining these appeals. Applicant company to deposit the amount by way of pre-deposit within 25 days from today. It is ordered accordingly.

However, it is made clear that the observations made above are merely for the purposes of disposal of these applications on the point of pre-deposit for the purposes of entertaining the appeals, and shall have no effect on the decision of the appeal on merits.

Handwritten signature
7/12/23



