$~32-38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 09.10.2026**

(32)

\# **CNR No. DLHC010223812023**

\+ W.P.(C) 7899/2023 & CM APPL. 30505/2023
M/S CANON INDIA PRIVATE LIMITED .....Petitioner

versus

COMMISSIONER OF TRADE AND TAXES
DELHI & ANR. .....Respondents

(33)

\# **CNR No. DLHC010349772023**

\+ W.P.(C) 11733/2023 & CM APPL. 45828/2023

M/S CANON INDIA PRIVATE LIMITED .....Petitioner

versus

COMMISSIONER OF TRADE AND TAXES
DELHI & ANR. .....Respondents

(34)

\# **CNR No. DLHC010439692023**

\+ W.P.(C) 14300/2023 & CM APPL. 56661/2023`

M/S KONICA MINOLTA BUSINESS SOLUTION INDIA

PRIVATE LIMITED .....Petitioner

versus

COMMISSIONER OF TRADE AND TAXES DELHI
& ANR. .....Respondents

(35)

\# **CNR No. DLHC010233832023**

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+ W.P.(C) 8218/2023 & CM APPL. 31544/2023

M/S KONICA MINOLTA BUSINESS SOLUTION INDIA PRIVATE LIMITED .....Petitioner

versus

COMMISSIONER OF TRADE AND TAXES DELHI & ANR. .....Respondents

(36)

CNR No. DLHC010270262023

+ W.P.(C) 9456/2023 & CM APPL. 36085/2023

XEROX INDIA LTD .....Petitioner

versus

COMMISSIONER OF TRADE AND TAXES DELHI & ANR. .....Respondents

(37)

CNR No. DLHC010278922023

+ W.P.(C) 9684/2023 & CM APPL. 37117/2023

INGRAM MICRO INDIA PVT LTD .....Petitioner

versus

COMMISSIONER OF TRADE AND TAXES DELHI & ANR. .....Respondents

(38)

CNR No. DLHC010371342026

+ W.P.(C) 11540/2026, CM APPL. 53514/2026 & CM APPL. 53515/2026

M/S EPSON INDIA PVT. LTD. .....Petitioner

versus

COMMISSIONER OF TRADE AND TAXES, DELHI & ORS. .....Respondents

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Presence: Mr. V. Lakshmikumaran, Mr. Yogendra Aldak, Mr. Agrim Arora & Ms. Sonakshi Pandey, Advs. for petitioner in item nos.32 to 38.
Ms. Urvi Mohan & Mr. Sumit K Batra, Advs. for respondent in item nos.32 to 38.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MS. JUSTICE SHAIL JAIN

AVNEESH JHINGAN, J. (ORAL)

1. These writ petitions are decided by this order as the facts and issues involved are similar. For the sake of convenience, the facts are taken from W.P.(C) 7899/2023.

2. The assessment years involved are 2005-06, 2008-09, 2009-10, 2010-11, 2012-13 and 2013-14 under the Delhi Value Added Tax Act, 2004 (hereinafter referred to as 'DVAT Act') and the assessment years 2009-10 and 2010-11 under the Central Sales Tax Act, 1956 (CST Act). A total of thirty nine assessment orders under the DVAT Act and two assessment orders under the CST Act are under challenge.

3. The pin-pointed controversy for initiation of the litigation was whether the Multi-Functional Printers (for short 'MFPs') are covered by Entry 41A of the Third Schedule of the DVAT Act or falls under the residuary entry.

4. The assessing authority taxed the MFPs at 12.5% under the residuary entry. The petitioner was unsuccessful before the Objection Hearing Authority (OHA) and thereafter the matter travelled to the tribunal. The bunch of matters was decided by the tribunal *vide* order dated 25.05.2022 and the issue was decided in favour of the petitioner

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that the MFPs were not covered by the residuary entry. The matters were remanded to the assessing authority for fresh calculations in view of the findings recorded and for verifying the invoices and documents submitted by the dealer before the assessing authority at the time of assessment and during the objection proceedings.

5. The grievance raised by the petitioner is that instead of making calculations in accordance with the decision of the tribunal the assessing authority revisited the issue of classification, depicting judicial indiscipline and overreaching the appellate hierarchy under the Act.

6. Learned counsel for the respondents defends the impugned orders and submits that the matter was remanded to the assessing authority.

7. The petitioner raised the following three-fold submissions before the tribunal:-

> "As per claim of the dealer, its product, even though having four functions-Print, Scan, Copy-
>
> i. Same is covered by item 'Automatic data processing machine' or
> expression "other Digital automatic data processing machines comprising in the same housing at least a central processing unit and an input and output unit whether or not combined"
> ii. Same is a machine having input and output units;
> iii. Same is a laser jet printer, dominant function of this multifunction machine being printing, out of the total four functions."

7.1 The tribunal decided the first issue against the petitioner whereas the other two issues were decided in favour of the petitioner.

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The relevant portions of the order of the tribunal are reproduced:

7.1.1 With regard to the first issue-

> "53. …….A unit in itself cannot be termed as ADPM, the reason being that a complete digital data processing system comprises of atleast a CPU, an input unit and an output unit. In other words, a CPU, an input unit and an output unit separately housed and interconnected, form a system.
>
> Here, it is not case of the appellant that its subject product or any of its models has a CPU. Therefore, there is no merit in the contention on behalf of the dealer that the Multifunction machine or device falls either in item "8471 10 00 or sub heading 8471 30" of entry 8471 of Central Excise Tariff.
>
> We do not find any material on record to suggest that Multifunction machine or device fall in any of the following items which find mention in column (2) of Entry 41A (Sr.No.3) under DVAT Act:
>
> "Automatic data processing machine,
>
> Electronic Diaries,
>
> Portable digital automatic data processing machine, personal computer,
>
> computer systems including personal computer,
>
> other Digital automatic data processing machines comprising in the same housing at least a central processing unit and an input and output unit whether or not combined, microcomputer/processor large /mainframe computer"

7.1.2 With regard to the second issue:

> "56. …On the other hand, when we peruse the commodities mentioned in column (2), Sr.No.3 of entry 41A of Schedule III, applying what is contained in Note

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> (2) of the notification, under DVAT Act, machine or device having multifunctions, even though considered as an individual item, being "input units" and "output units" having description only in the said entry 41A (St.No.3) would fall in this entry.
>
> xxxx xxx xxx
>
> 57. ……..When we see it from other angle, i.e. considering the commodities mentioned in column (2), Sr.No.3 of entry 41A, the multifunction product being "input units" and "output units", is covered by the notification. In view of note (2) of the notification under DVAT Act, even though having description as an individual item, the multifunction machine or device would not fall in residuary entry."

8. While deciding the second issue, the tribunal specifically recorded a finding that the MFPs would not fall under the residuary entry.

9. The third issue was decided in view of the decision of the Hon'ble Supreme Court in ***Xerox India Limited v. Commissioner of Customs, Mumbai***, (2010) 14 SCC 430. It was held that the predominant function of MFPs was that of a laser printer and were covered under column 2 of serial no. 3 of entry 41A of the Third Schedule, even when considered as individual output units. Accordingly, the MFPs were held not falling under the residuary entry.

> "65. As noticed above, in Xerox case (2010), it was on the basis of percentage of parts and components coupled with manufacturing cost allocated to printing, Hon'ble Apex Court observed that the principal function of the machines-subject matter of that case-was printing and

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said function provided its essential character to the multifunctional machine.

Note 7 of Chapter 84 of Central Excise Tariff provides that a machine, which is used for more than one purpose is, for the purposes of classification, to be treated as if its principal purpose were its sole purpose.

Note (7) of Chapter 84 speaks of “purpose for which the machine is used". There is no mechanism to know actual user, and as noticed above, in Xerox's case, Hon'ble Apex Court took into consideration the above factors of the multifunction machines -subject matter of that case.

Taking a cue from the decision in Xerox case, note 7 of Chapter 84 and applying the same to the facts of present case, it can safely be said that on account of principal function of printing: machine the multiple function of printing, the multiple function machines of the dealer-appellants are to be treated as if printing-its principal purpose were its sole purpose.

66. Laser Jet Printer as an output unit falls in Sr.No. 3 of Entry 41A of DVAT Act's schedule III and in tariff item 8471 60 26 of the Central Excise Tariff.

It is significant to note that no two input or output units from 8471 60 onwards as available in Central Excise List find mention in entry No.41A of DVAT Act. Laser Jet Printer finds mentioned in column No. (2) of entry No.41 A but as a single output unit.

Column No. (2) of entry No.41 A does not require that Laser Jet Printer must be accompanied by another output or input unit to be exigible to pay tax as per this Schedule III.

In view of what is contained in Note (3) of the notification pertaining to entry 41 A(Sr.No.3), under DVAT Act, when entry No.41 (Sr.No.3) does not stipulate that Laser Jet Printer must be combined with some input unit, having regard to the predominant function, this tariff item can safely be held to be covered

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> by Column No. (2) of Sr. No. 3 of Entry 41A, even as individual output unit.
>
> Notably, even in case of any difference, as per Note (2) Laser Jet Printer, as an individual output unit, cannot be taken to the residuary entry."

10. The position was further clarified by the tribunal and the relevant portion is reproduced:

> "66. ……In view of the above discussion, we hold that (a) a laser jet printer, is covered by the expression "Unit of heading 8471" (as per note 5(D) of Chapter 84); a laser jet printer, is a commodity described in column (2) of Entry 41 A of DVAT Schedule III; and
>
> (b) that a machine or device may be having more than one function, but keeping in view its predominant function, here the predominant function being printing, said machines or devices would not fall in residuary entry.

11. The amendment to the Central Excise Tariff Act,1985 effective from 01.01.2007 was also taken into consideration. The concluding portion of the order of the tribunal remanding the matters for fresh calculations in view of the findings of the tribunal is as under:

> "71. In view of the above findings, the impugned assessments and the impugned orders upholding the same are set-aside and learned Assessing Authority is directed simply to make fresh calculations in view of the above findings, and keeping in view the information available in the invoices/ documents which ever were submitted by the dealer — appellant before Assessing Authority initially at the time of making of assessment and then during the objections, and also the documents submitted before this Appellate Tribunal, and accordingly

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issue fresh notice of assessment on the basis of said fresh calculations."

12. It is an admitted position that the respondents accepted the order of the tribunal and chose not to challenge it. However, the assessing authority overreached the decision of the department to accept the findings of the tribunal. After selective reproduction of the order of the tribunal, the assessing authority reventured into the issue of classification of MFPs and relying upon an assessment order passed in the case of another assessee, held that the MFPs would fall under the residual entry and taxable @12.5%.

13. The order of the tribunal and the conditions for remand were unambiguous. It was specifically concluded that the MFPs would not fall under the residuary entry. The assessing authority was required to make fresh calculations after considering the invoices and documents produced by the petitioner during the assessment proceedings and the objection proceedings. In other words, the scope of remand was limited to verifying the factum that whether the goods claimed by the petitioner to be taxable @4% were MFPs. However, this aspect was not gone into by the assessing authority.

14. The petitioner has a statutory remedy available under the Act against the impugned order. However, considering the conduct of the respondents and the manner in which the issue has been handled, it is a clear case of judicial indiscipline and the assessing authority acting

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beyond jurisdiction. It is a fit case for exercising extraordinary writ jurisdiction. Reference in this regard be made to the decisions of the Supreme Court.

14.1 In ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai & Ors.*** (1998) 8 SCC 1, it was held-

> "15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

14.2. In ***M/s. Godrej Sara Lee Ltd. vs. The Excise and Taxation Officer-cum-Assessing Authority & Ors***. (2025) 11 SCC 808, it was held-

> "6. The power to issue prerogative writs under Article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to Article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very

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statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the High Court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the High Courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under Article 226 that has evolved through judicial precedents is that the High Courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under Article 226 has not pursued, would not oust the jurisdiction of the High Court and render a writ petition "not maintainable".

15. In view of the aforesaid discussion, the impugned orders are set aside.

16. Before concluding and exercising restraint the only observation that may be made herein is that the uncalled-for litigation could have been avoided by the respondent.

17. These petitions are allowed.

18. All pending applications stand disposed of.

AVNEESH JHINGAN, J

SHAIL JAIN, J

OCTOBER 9, 2026/PT/MM

Reportable: **Yes**

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