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

\+ ST.APPL. 15/2015, C.M. Nos.5361-5364/2015

ST.APPL. 18/2015, C.M. Nos.5374-5376/2015

J M W INDIA (P) LTD ..... Petitioner

Through: Mr. Dinesh Mohan Sinha with Mr. Rajeev Kr. Deora, Advocates.

Versus

VAT OFFICER & OTHERS & ORS. ..... Respondents

Through: Ms. Ruchi Sindhwani with Ms. Bandana Shukla and Ms. Megha Bharara, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **23.03.2015**

C.M.Nos.5362 & 5364/2015 IN ST.APPL. 15/2015

Delay in filing and re-filing the appeal is condoned.

CM Nos.5362 & 5364/2015 stand allowed, subject to all just exceptions.

C.M.No.5363/2015 IN ST.APPL. 15/2015

Exemption granted. Application stands allowed subject to all just exceptions.

C.M.No.5375/2015 IN ST.APPL. 18/2015

Delay in filing the appeal is condoned.

CM No.5375/2015 stand allowed, subject to all just exceptions.

C.M.No.5376/2015 IN ST.APPL. 18/2015

Exemption granted. Application stands allowed subject to all just exceptions.

ST.APPL.15/2015, CM No.5361/2015 (for stay) & ST.APPL.18/2015, CM No.5374/2015 (for stay)

The question of law urged is "whether the decision of the VAT Tribunal holding that the sale of the cars and other capital assets not exempt under Section 6 (3) of the Delhi Value Added Tax Act, 2004 is correct in law."

The appellants who are registered as dealers under the Delhi VAT Act (DVAT Act) had for the purposes of their business purchased motor cars and vehicles and paid sales tax/VAT at the time of purchase under the Delhi Sales Tax Act, 1975 or under the DVAT Act. They were not dealers or traders for auto vehicles but dealers in respect of other goods and articles. When they sought to sell these cars, the VAT authorities insisted upon deposit of the amounts claimed as they sought to sell these cars, the VAT authorities insisted that such transactions amounted to taxing events under the DVAT Act. This was disputed by the appellant who contested the levy and assessment before the Objection Hearing Authority (OHA) and later the Tribunal unsuccessfully.

At the outset, we noticed that the impugned order of the VAT Tribunal dated 17.06.2014 was the subject matter of a decision of this Court in *Anand Decors v. Commissioner of Trade and Taxes, New Delhi* ST. APPL.35/2014, dated 23.12.2014. The Court had concluded that the cars - which had suffered first point sales tax levy earlier, were exempted under Section 6 (3) since the assessee/appellant was not essentially dealing or trading in them but using them for commercial activities. The Court, therefore, concluded that being capital goods, the benefit of Section 6 (3) exemption was available. This issue was decided in *Anand Decors (supra)* is not disputed by the Revenue.

Consequently, the appeals succeed and are allowed. The impugned order is accordingly set aside.

S. RAVINDRA BHAT, J

R.K.GAUBA, J

MARCH 23, 2015
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