IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9684 of 1990.
Date of Decision : 05.02.2015.

M/s Prakash Pipes Industries Ltd. ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. R.K. Chhibbar, Senior Advocate with
Mr. Gaurav Mankotia, Advocate for the petitioner.

Ms. Mamta Singhal, AAG, Haryana.

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Rajive Bhalla, J.(Oral)

The petitioner prays for issuance of a writ of certiorari quashing show cause notice, issued under Section 40(2) of the Haryana General Sales Tax Act, 1972 (hereinafter referred to as “the Act”), proposing to revise an already concluded assessment.

Counsel for the petitioner submits that the assessment order was passed by the Deputy Excise and Taxation Commissioner (hereinafter referred to as “the DETC”), Hisar. The show cause notice for re-assessment under Section 40(2) of the Act was, therefore, required to be issued by an officer senior to the DETC, Hisar, but has been issued by an officer of co-ordinate rank, namely, the DETC (Inspection-cum-Revisional Authority), thereby rendering the impugned notice null and void.

Counsel for the State of Haryana submits that she has been instructed by Mr. Ajay Sihag, Excise and Taxation Officer, Hisar, to make a statement that the show cause notice impugned in the present petition may be treated as withdrawn but with liberty to the State to serve a fresh notice under Section 40 (2) of the 1973 Act, after following procedure prescribed by law.

We have heard counsel for the parties and in view of statement made by counsel for the State of Haryana, on instructions from Mr. Ajay Sihag, allow the writ petition and set aside the show cause notice with liberty to the State of Haryana to proceed afresh, under Section 40 (2) of the Act, in accordance with law but without prejudice to the rights of the parties.

(RAJIVE BHALLA)
JUDGE

(B.S. WALIA)
JUDGE

February 05, 2015.
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