IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) **VATAP No. 244 of 2014**
Date of Decision:- 23.04.2015

M/s. Shree Rattan Jyoti Electrodes Industries, Karnal ......Appellant(s)

vs.

The State of Haryana ......Respondent(s)

VATAP No. 245 of 2014
(ii) **Date of Decision:- 23.04.2015**

M/s. Shree Rattan Jyoti Electrodes Industries, Karnal ......Appellant(s)

vs.

The State of Haryana ......Respondent(s)

VATAP No. 246 of 2014
Date of Decision:- 23.04.2015
(iii)

M/s. Shree Rattan Jyoti Electrodes Industries, Karnal ......Appellant(s)

vs.

The State of Haryana ......Respondent(s)

VATAP No. 9 of 2015
(iv) **Date of Decision:- 23.04.2015**

M/s. Shree Rattan Jyoti Electrodes Industries, Karnal ......Appellant(s)

vs.

The State of Haryana ......Respondent(s)

CORAM:- HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present:- Mr. Avneesh Jhingan, Advocate,
for the appellant.

Ms. Mamta Singla Talwar, AAG, Haryana.

S.J. VAZIFDAR, A.C.J. (Oral)

1. These are appeals filed under Section 36 of the Haryana Value Added Tax Act, 2003 against the order dated 31.01.2012 of the Haryana Tax Tribunal dismissing the appellant's appeal against the order of the Joint Excise and Taxation Commissioner (Appeals), which in turn had dismissed the appeals against the assessment order for the assessment years 2002-03 and 2003-04. The appeals are admitted on the substantial question of law raised in para no. 12(ii) of the present appeal, which reads thus:-

> *"(ii) whether in the facts and circumstances of the case, the Tribunal should have kept pending the consequential proceedings to await the outcome of appeals in the main case?"*

2. The impugned order would have to be set aside and the matter remanded in view of the events that transpired after the impugned order. The appellant was granted the benefits under Rule 28(B) of the Haryana General Sales Tax Rules, 1975 (in short 'the Rules') for the period 06.05.1998 to 05.05.2015 subject to a maximum amount of about ₹13.34 lakhs. However, on 07.03.2003, the DETC rejected the renewal application for the years 1998 to 2003. Applications for renewal are to be made each year. The appellant had challenged this order. However, pending the challenge, the assessments for the said years were finalized. The Excise and Taxation Commissioner dismissed the appellant's appeal against the order of the DETC dated 07.03.2003 rejecting the application for renewal of the exemption under Rule 28(B) of the Rules. The Tribunal set aside this order and remanded the same to the Excise and Taxation Commissioner. On 19.10.2009, while the matter was pending on remand, the DETC (Appeals)

dismissed the appellant's appeals against the assessment orders. On 31.01.2012, the Tribunal dismissed the appeals against the assessment orders.

3. Subsequently, the Excise and Taxation Commissioner, by an order dated 22.03.2012, allowed the appeal and renewed the exemption under Rule 28(B) subject to completion of the formalities.

4. In the circumstances, the basis on which the assessment order was passed and the basis on which the appeals against the same were dismissed ceases to exist. In other words, the assessment orders have now to be finalized afresh on the basis that the appellant is an exempted unit under Rule 28(B) of the Rules.

5. The appeals are therefore, allowed. The impugned orders are quashed and are set aside. The matters are remanded to the Assessing Authority to pass fresh assessment orders.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

23.04.2015
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