IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 17515 of 2001(O&M)

Date of decision: 21.7.2016

M/s Shanti Fastners .. Petitioner

vs

State of Punjab and another .. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mrs. Justice Lisa Gill

Present: Mr. Sandeep Goyal, Advocate, for the petitioner.
Ms. Sudeepti Sharma, Deputy Advocate General, Punjab.

Rajesh Bindal, J.

The petitioner has approached this Court impugning the order dated 17.8.2001 passed by the Assessing Authority while deciding the inspection case and framed assessment for the period from 1.4.2000 to 20.9.2000. Though the petitioner has challenged the order of assessment raising the legal issue that there was no provision for framing of provisional assessment under the Punjab General Sales Tax Act, 1948, however, he submitted that the period for which provisional assessment was made, relates to the assessment year 2000-2001. Assessment for the completed year was framed on 27.12.2002 and finally no amount of tax was found to be due. The petitioner unit was an exempted unit. The entire amount of tax assessed was adjusted against the exemption limit. The submission is that once the assessment for the complete year was framed, the provisional assessment framed for part of the year cannot be enforced.

Learned counsel for the State did not dispute the fact that assessment for the complete year 2000-2001 was framed by the assessing authority vide order dated 27.12.2002 and no tax was finally found to be payable.

After hearing learned counsel for the parties and considering the submissions made above, in our opinion, the order of impugned assessment dated 17.8.2001 framed for the part of the year cannot be enforced at this stage as for the complete year 2000-2001, the assessing authority had finally taken care of the entire material available with him at the time of framing of assessment. Nothing to the contrary has been shown or referred to at the time of hearing. Accordingly, the writ petition is allowed. The impugned order dated 17.8.2001 (Annexure P-1) is set aside.

(Rajesh Bindal)
Judge

21.7.2016 (Lisa Gill)
vs Judge