

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

VAT Appeal No.53 of 2009 (O&M)

Date of Decision: December 19, 2016

Unique Chains

---Appellant

Versus

State of Punjab and another

---Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal  
Hon'ble Mr. Justice Harinder Singh Sidhu**

**Present: Mr.Sandeep Goyal, Advocate  
for the Appellant.**

**Mr.Piyush Bansal, DAG, Punjab.**

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**HARINDER SINGH SIDHU, J.**

1. The assessee is in appeal before this Court against the order dated 20.02.2009 passed by the Value Added Tax Tribunal, Punjab (for short 'the Tribunal) in Appeal (VAT) No.73 of 2008-09 raising the following substantial questions of law: -

“(i) Whether under Section 51(6)(b) of the Punjab VAT Act 2005, a person bringing the goods from outside the State of Punjab in the Railway train, is required to report the goods at ICC?

(ii) Whether it is right to conclude that under proviso 1 to Section 51(2), the words 'goods vehicle' is not there when in the first line of Section 51(2) itself it is written “The owner or person in charge of a goods vehicle”

(iii) Whether on the facts and circumstances of the case, any offence has been committed for which penalty u/s 51(7)(c) has been imposed?

(iv) Whether a dealer who is not registered under the provisions of the Punjab VAT Act 2005 will be a casual trader

u/s 31(5) of the Act ibid and for its contravention, any penalty u/s 51(7)(c) can be imposed upon him?"

2. The facts in brief as recorded in the order of the Tribunal are that on 12.01.2008 information was received by ETO(MW) Amritsar from one Shri Gurdial Singh, SHO, GRP, Amritsar that their team had detained one Ankit Mehra who was carrying gold ornaments while travelling by Dadar Express train from Amritsar to Patiala. The ETO went to Beas Station and checked Ankit Mehra under Section 51 of the Punjab Value Added Tax Act, 2005 (for short 'the Act'). Gold ornaments were found from a bag in his possession. The examination of the goods revealed that these were not covered by proper and genuine documents as required under Section 51(2) of the Act. The gross weight of the gold ornaments was 8,135.320 gms and net weight 8,060.820 gms. The value thereof was assessed to be ₹ 76,61,246/-. The detaining officer issued show cause notice to the owner of the goods under Section 51(6)(b) of the Act. None appeared despite proper service. The matter was referred by the Detaining Officer to the Designated Officer for action under Section 51 of the Act. The AETC(MW) came to the conclusion that there was violation of Sections 51(2) and 51(4) of the Act with a view to avoid tax as the goods were taxable and meant for trade. The plea of the appellant that these goods were samples to show for getting orders or that these ornaments were prepared from gold given by the parties, was not accepted. Vide order dated 25.1.2008 passed by the AETC (MW) Amritsar penalty of ₹39,07,235/- was imposed under Sections 51(7)(c) read with Section 51(12) of the Act. The appeal filed by the appellant was dismissed by DETC(A), Jalandhar Division vide order dated 20.5.2008. The further appeal to the Tribunal was

dismissed vide order dated 20.2.2009.

3. Before the Tribunal, it had been argued on behalf of the appellant that the provisions of Sections 51(2) and (4) of the Act were applicable only in a case where goods were being transported in a 'goods vehicle'. Relying on the definition of 'goods vehicle' as given in Section 2(1) of the Act, it was argued that a vehicle running upon fixed rails, was specifically excluded from the definition of 'goods vehicle'. Accordingly, as Ankit Mehra from whose possession, the gold ornaments were found, was travelling in a train, the provisions of Sections 51(2) and 51(4) of the Act were not attracted. Reliance was placed on a decision of this Court in **International Switch Gears vs. Union Territory of Chandigarh & others (1998) 109 STC 75 (P&H)**. The Tribunal, however, did not agree with the appellants. It was held that the judgment in **Switch Gears** case (*supra*) could not be relied upon as it was in relation to a case under Section 14-B of the Punjab General Sales Tax Act, 1948 (for short 'the Sales Tax Act'), as applicable to the Union Territory of Chandigarh, which at the relevant time did not have a proviso similar to that in Section 51(2) of the VAT Act. The first proviso to Section 51(2) of the Act reads as under:-

*“Provided that a person selling goods from within or outside the State in the course of inter-state trade or commerce shall also furnish or cause to be furnished a declaration with such particulars, as may be, prescribed.”*

4. The Tribunal held that as in the proviso, the term used is 'person' and not 'person in-charge of a goods vehicle', it means that any person selling goods within or outside the State in the course of inter-state trade or commerce has to furnish or cause to be furnished a declaration with

such particulars, as may be prescribed. As per Rule 63 of the Punjab Value Added Tax Rules, 2005 (for short “the Rules”) the declaration referred to in the first proviso to Section 51(2) of the Act shall contain the particulars as prescribed in Form VAT 12. Such declaration was to be given at the nearest Information Collection Centre (for short “ICC”) or Check Post. Though there was an ICC outside Railway Station, Ludhiana, no such declaration was furnished. The argument of the Counsel for the appellant that he be considered to be a casual dealer under Section 31 of the Act or that he be treated to be an unregistered dealer, liable to penal action under Section 52 and 53 of the Act was rejected. It was held that as the goods were intercepted in transit, there was clear violation of the first proviso of sub-section (2) of Section 51 of the Act. Accordingly, the appeal was dismissed.

5. It is this order of the Tribunal which has been impugned in the present appeal.

6. Sh. Sandeep Goyal, Ld. Counsel for the appellants has argued that the Tribunal has erred in relying on the proviso to distinguish the present case from that of **Switch Gear's** case (supra). He argued that the proviso cannot be read in the manner as done by the Tribunal. The proviso has to be interpreted in the context of the entire Section 51, particularly sub-section (2) thereof, which is concerned only with the liability of the 'owner or person in charge of a goods vehicle' in respect of 'goods being carried in the goods vehicle'. It is only vide the Punjab Value Added Tax (Amendment) Act, 2013 which came into force on 9.4.2013, that Section 51 of the Act has been amended. After this amendment in Section 51(2) of the Act, the words used are “the owner or person In charge of the goods or a goods vehicle” instead of only 'the owner or person Incharge of the goods

vehicle' at the relevant time. Similar amendments have been made in Sub-sections (3), (4) and (5) of Section 51 of the Act. Also in sub-section (2) of Section 51 of the Act after the words "as are being carried in the goods vehicle" the words "or by any other means" have been inserted which now reads as "as are being carried in the goods vehicle or by any other means". The first proviso has also been amended and the words "intrastate or" has been inserted. He further argued that recently interpreting Section 51 (as it existed before the 2013 amendment) this Court in **VAT Appeal No. 73 of 2009** titled "**State of Punjab and another Vs. M/s Indo Arya Central Transport Ltd. and others**" decided on 16.08.2016 has opined that goods being transported in a vehicle running upon fixed rails could not be detained under Section 51 of the Act.

7. Accordingly, Ld. Counsel has argued that as the checking was done in respect of goods not being carried in a goods vehicle (railway train) the entire proceedings were without jurisdiction. He forcefully contended that whatever may be the interpretation of the provision after the 2013 amendment, the finding of the Tribunal on the basis of the un-amended provision cannot sustain.

8. Ld. State Counsel on the other hand, while supporting the reasoning of the Tribunal argued that the first proviso to Section 51(2) of the Act will be applicable to any person carrying goods in the course of inter-state trade irrespective of whether the goods were being transported in a goods vehicle or not. Hence, if the declaration in terms of the proviso is not furnished, the the checking, detention and imposition of penalty etc. on such a person would be legal and valid even if the goods were not being transported in a goods vehicle.

9. We have heard Ld. Counsel for the parties and perused the record.

10. On the facts of the aforesaid appeals, the following substantial question of law arises for decision:

Whether the use of the term 'person' in the first proviso to Section 51(2) as distinct from 'the owner or person in charge of a goods vehicle' in Section 51(2) foists the obligation in terms of the proviso to furnish or cause to be furnished a declaration in the form prescribed, on any person selling goods in the course of inter-State trade or commerce even when such goods are not being transported in a 'goods vehicle' ?

11. Section 51 of the Act as it existed at the relevant time is reproduced below:-

***“S.51. ESTABLISHMENT OF INFORMATION COLLECTION CENTRES***

- (1) If, with a view to prevent or check avoidance or evasion of tax under this Act, the State Government considers it necessary so to do, it may, by notification, direct for the establishment of a check post or, information collection centre or both at such place or places, as may be specified in the notification.*
- 2) The owner or person Incharge of a goods vehicle shall carry with him a goods vehicle record, goods receipt, a trip sheet or a log-book, as the case may be, and a sale invoice or bill or cash memo, or delivery challan containing such particulars, as may be prescribed, in respect of such goods meant for the purpose of business, as are being carried in the goods vehicle and produce a copy each of the aforesaid documents to an officer Incharge of a check post or information collection centre, or any other officer not below the rank of an Excise and Taxation Officer checking the vehicle at any place:*

*Provided that a person selling goods from within or outside the State in the course of inter-State trade or commerce, shall also furnish or cause to be furnished a declaration with such particulars, as may be prescribed:*

*Provided further that a taxable person, who sells or*

*despatches any goods from within the State to a place outside the State or imports or brings any goods or otherwise receives goods from outside the State, shall furnish particulars of the goods in a specified form obtained from the designated officer, duly filled in and signed.*

- (3) *At every check post or information collection centre or at any other place when so required by an officer referred to in sub-section (2), the driver or any other person Incharge of the goods vehicle shall stop the vehicle and keep it stationary, as long as may reasonably be necessary, and allow the officer Incharge of the check post or the information collection centre or the aforesaid Establishment of information collection centres or check posts and inspection of goods in transit. 43 officer to check the contents in the vehicle by breaking open the package or packages, if necessary, and inspect all records relating to the goods carried, which are in the possession of the driver or any other person, as may be required by the aforesaid officer, and if considered necessary, such officer may also search the goods vehicle and the driver or other person Incharge of the vehicle or of the goods.*
- (4) *The owner or person Incharge of a goods vehicle entering the limits or leaving the limits of the State, shall stop at the nearest check post or information collection centre, as the case may be, and shall furnish in triplicate a declaration mentioned in sub-section (2) alongwith the documents in respect of the goods carried in such vehicle before the officer Incharge of the check post or information collection centre. The officer Incharge shall return a copy of the declaration duly verified by him to the owner or person Incharge of the goods vehicle to enable him to produce the same at the time of subsequent checking, if any:*

*Provided that where a goods vehicle bound for any place outside the State passes through the State, the owner or person Incharge of such vehicle shall furnish, in duplicate, to the officer Incharge of the check post or information collection centre, a declaration in respect of his entry into the State in the prescribed form and obtain from him a copy thereof duly verified. The owner or person Incharge of the goods vehicle, shall deliver within forty-eight hours the aforesaid copy to the officer Incharge of the check post or information collection centre at the point of its exit from the State, failing which, he shall be liable to pay a penalty to be imposed by an order, made by the officer incharge of the check post or information collection centre equal to fifty per cent of the value of the goods involved:*

*Provided further that where the goods carried by such vehicle are, after their entry into the State, transported outside the State by any other vehicle or conveyance, the burden of proving that the goods have actually moved out of the State, shall lie on the owner or person Incharge of the vehicle:*

*Provided further that no penalty shall be imposed unless the person concerned has been given an opportunity of being heard.*

- (5) *At every station of transport of goods, bus stand or place of loading or unloading of goods, when so required by the Commissioner or the designated officer, the driver or the owner of the goods vehicle or the employee of transport company or goods booking agency, shall produce for examination, transport receipts and all other documents and accounts books concerning the goods carried, transported, loaded, unloaded, consigned or received for transport, maintained by him in the prescribed manner. The Commissioner or the 44 designated officer shall, for the purpose of examining that such transport receipts or other documents or account books are in respect of the goods carried, transported, loaded, unloaded or consigned or received for transport, have the powers to break open any package, or packages of such goods.*
- (6) (a) *If the officer Incharge of the check post or information collection centre or any other officer as mentioned in sub-section (2), has reasons to suspect that the goods under transport are meant for trade and are not covered by proper and genuine documents as mentioned in sub-section (2) or sub-section (4), or that the person transporting the goods is attempting to evade payment of tax, he may, for reasons to be recorded in writing and after hearing the person concerned, order detention of the goods alongwith the vehicle for a period not exceeding seventy-two hours. Such goods shall be released on furnishing of security or executing a bond with sureties in the prescribed form and manner by the consignor or the consignee, if registered under this Act to the satisfaction of the officer on duty and in case the consignor or the consignee is not registered under this Act, then on furnishing of a security in the form of cash or bank guarantee or crossed bank draft, which shall be equal to the amount of penalty leviable rounded upto the nearest hundred.*
- (b) *If the owner or the person Incharge of the goods has not submitted the documents as mentioned in sub-sections*

*(2) and (4) at the nearest check post or information collection centre, in the State, as the case may be, on his entry into or before exit from the State, such goods shall be detained alongwith the vehicle for a period not exceeding seventy-two hours subject to orders under clause (c) of sub-section (7).*

- (7) (a) The officer detaining the goods under sub-section (6), shall record the statement, if any, given by the consignor or consignee of the goods or his representative or the driver or other person Incharge of the goods vehicle and shall require him to prove the genuineness of the transaction before him in his office within the period of seventy-two hours of the detention. The said officer shall, immediately thereafter, submit the proceedings alongwith the concerned records to the designated officer for conducting necessary enquiry in the matter;*
- (b) The designated officer shall, before conducting the enquiry, serve a notice on the consignor or consignee of the goods detained under clause (a) of sub-section (6), and give him an 45 opportunity of being heard and if, after the enquiry, such officer finds that there has been an attempt to avoid or evade the tax due or likely to be due under this Act, he shall, by order, impose on the consignor or consignee of the goods, a penalty, which shall be equal to thirty per cent of the value of the goods. In case he finds otherwise, he shall order release of the goods and the vehicle, if not already released, after recording reasons in writing and shall decide the matter finally within a period of fourteen days from the commencement of the enquiry proceedings;*
- (c) The officer referred to in clause (b), before conducting the enquiry, shall serve a notice on the consignor or consignee of the goods detained under clause (b) of sub-section (6) and give him an opportunity of being heard and if, after the enquiry, such officer is satisfied that the documents as required under subsections (2) and (4), were not furnished at the information collection centre or the check post, as the case may be, with a view to attempt to avoid or evade the tax due or likely to be due under this Act, he shall by order, for reasons to be recorded in writing, impose on the consignor or consignee of the goods, penalty equal to fifty per cent of the value of the goods involved. In case, he finds otherwise, he shall order release of the goods for sufficient reasons to be recorded in writing. He may, however, order release of the goods and the vehicle on furnishing of a security by the consignor or the consignee in the form of cash or bank guarantee or crossed bank draft for an amount*

*equal to the amount of penalty imposable and shall decide the matter finally within a period of fourteen days from the commencement of the enquiry proceedings;*

- (d) *The officer incharge of a check post or information collection centre or any other officer referred to in sub-section (2), may receive the amount of cash security as referred to in clause (a) of sub-section (6) and clause (c) of sub-section (7) and the amount of penalty imposed under sub-section (4) and clauses (b) and (c) of sub-section (7) against a proper receipt in the prescribed manner.*

***Explanation.*** –*The detained goods and the vehicle shall continue to be so detained beyond the period specified in sub-sections (6) and (7), unless released by the detaining officer or enquiry officer against surety or security as provided for in these sub-sections or the penalty imposed, has been realized or the 46 enquiry officer orders release of the detained goods after enquiry, whichever is earlier.”*

12. It is not denied or sought to be argued by the respondent-State, that the reference in Sections 51(2) and 51(4) of the Act being only to 'the owner or person In charge of a goods vehicle', there is no power in terms of these provisions to detain the goods being transported otherwise than in a 'goods vehicle'. In view of the specific exclusion of 'vehicle running upon fixed rails' from the definition of 'goods vehicle' there would be no jurisdiction to detain goods being transported on a railway train as held by this Court in **Indo Arya Central Transport Ltd.'s** case (supra)

13. The question is whether the first proviso to Section 51(2) leads to a different conclusion?

14. In our view the answer has to be in the negative.

15. The first proviso has already been reproduced above. As per Section 51(2) of the Act 'the owner or person in charge of a goods vehicle' is required to carry with him a goods vehicle record, goods receipt, a trip sheet or a log- book, a sale invoice or bill or cash memo etc in respect of goods

meant for the purpose of business which are being carried in the goods vehicle and produce a copy of these documents at the check post or information collection centre or to any other officer not below the rank of Excise and Taxation Officer checking the vehicle at any place.

16. As per first proviso to Section 51(2) a person selling goods from within or outside the State in the course of inter-state trade or commerce shall also furnish a declaration with such particulars, as may be prescribed.

17. On a plain reading of the above provisions it appears that Section 51(2) of the Act obliges each and every 'owner or person in charge of a goods vehicle' to carry with him the documents prescribed therein in respect of goods meant for the purpose of business and being carried in the goods vehicle.

18. But in respect of goods being sold from within or outside the State in the course of inter-state trade or commerce the first proviso imports an additional condition of furnishing a declaration with such particulars as may be prescribed. Thus the purpose of the proviso appears to be to require furnishing of an additional declaration in respect of goods being sold from within or outside the State in the course of inter-state trade or commerce. This declaration would be in addition to the documents required to be carried in respect of every goods vehicle carrying goods for the purpose of business. It is made clear by the use of the words 'shall also' in the first proviso.

19. In view of the admitted position that sub-section (2) of Section 51 of the Act applies only in respect of goods being carried in a goods vehicle and the language of the proviso clearly importing an additional

condition of furnishing a declaration in the form prescribed, over and above the requirement of sub-Section (2) of Section 51 of the Act, the proviso necessarily takes its colour from Section 51(2) of the Act. Meaning thereby that those covered by the first proviso are not absolved of the requirement of sub-section (2) of Section 51 of the Act. Now as sub-section (2) of Section 51 of the Act applies to goods being carried in a goods vehicle, the proviso which prescribes an additional obligation over and above sub-section (2) of Section 51 of the Act, would be rendered meaningless if it applied only to persons not using a goods vehicle for transport of the goods, for such a person transporting goods other than in a goods vehicle, (may be carrying them on his own person), cannot be required to carry all the documents contemplated in Section 51(2) of the Act, most of which namely goods vehicle record, goods receipt, trip sheet or log book are in relation to a goods vehicle only. Accordingly, it has to be held that the proviso also necessarily applies to goods being carried in a goods vehicle though being carried for the purpose specified in the proviso i.e., being sold within or outside the State, in the course of inter-state trade or commerce.

20. Thus, merely the use of the term 'person' in the proviso instead of the term 'owner or person in charge of the goods vehicle' would not support the conclusion of the Tribunal that it applies to any person selling goods within or outside the State in the course of inter-state trade or commerce even though such goods are not being transported in a goods vehicle.

21. This conclusion is further fortified when provisions of Rule 63 and 64 of the Rules are taken note of.

22. Rules 63 and 64 of the Rules fall in Chapter -IX titled

`Transportation of Goods'. Rule 63 is titled as `Delivery challan and declaration'. As per Rule 63(1) of the Rules, the declaration referred to in the first proviso to sub-section (2) of Section 51 of the Act, shall contain the particulars as are prescribed in Form VAT 12.

Form VAT 12 is reproduced below:

“Form VAT – 12

(See rule 30, 63 & 64)

Declaration at ICC or check post

|                                              |                                     |                                                                                                                 |                                                                                                                             |
|----------------------------------------------|-------------------------------------|-----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| Name of ICC                                  | <div></div>                         | ICC Code                                                                                                        | <div></div>                                                                                                                 |
| Serial No.                                   | <div></div>                         | Import / Export                                                                                                 | <div></div>                                                                                                                 |
| Sr. No. of FORM VAT- 36                      | <div></div>                         | Date:                                                                                                           | <div></div> <div></div> <div>/</div> <div></div> <div></div> <div>/</div> <div>2</div> <div>0</div> <div></div> <div></div> |
|                                              |                                     | Time:                                                                                                           | <div></div>                                                                                                                 |
| DECLARATION                                  |                                     |                                                                                                                 |                                                                                                                             |
| 1. R.C. No of the Consignor                  | <div></div>                         | <div></div>                                                                                                     | <div></div>                                                                                                                 |
| 2. Name & Complete Address of the Consignor  | <div></div> <div></div> <div></div> |                                                                                                                 |                                                                                                                             |
| 3. R.C. No of the Consignee                  | <div></div>                         | <div></div>                                                                                                     | <div></div>                                                                                                                 |
| 4. Name & Complete Address of the Consignee  | <div></div> <div></div> <div></div> |                                                                                                                 |                                                                                                                             |
| 5. Description of Goods                      | <div></div> <div></div>             |                                                                                                                 |                                                                                                                             |
| 6. Name and Address of the Transport Company | <div></div> <div></div>             |                                                                                                                 |                                                                                                                             |
| 7. GR/TR/Way Bill/Log Book/Trip Sheet Number | <div></div> <div></div>             |                                                                                                                 |                                                                                                                             |
| 8. GR/TR/Way Bill/Log Book/Trip Sheet Date   | <div></div>                         | <div></div> <div>/</div> <div></div> <div></div> <div>/</div> <div>2</div> <div>0</div> <div></div> <div></div> | <div></div>                                                                                                                 |
| 9. Vehicle Number                            | <div></div> <div></div>             |                                                                                                                 |                                                                                                                             |

|                                                                                              |                                                                     |  |   |  |  |   |   |   |  |  |
|----------------------------------------------------------------------------------------------|---------------------------------------------------------------------|--|---|--|--|---|---|---|--|--|
| 10. Name and Address of the owner of the person incharge of goods                            |                                                                     |  |   |  |  |   |   |   |  |  |
| 11. Bill / Delivery Challan Number                                                           |                                                                     |  |   |  |  |   |   |   |  |  |
| 12. Bill / Delivery Challan Date                                                             |                                                                     |  | / |  |  | / | 2 | 0 |  |  |
| 13. Value of Goods                                                                           | Rs.                                                                 |  |   |  |  |   |   |   |  |  |
| 14. Destination of Goods                                                                     |                                                                     |  |   |  |  |   |   |   |  |  |
| Signature of the Officer-incharge alongwith his Code No. and Stamp appended after the check. | Signature or thumb impression of the person transporting the goods. |  |   |  |  |   |   |   |  |  |

Rule 64 of the Rules is titled '**Procedure for furnishing information at the Information Collection Centre**'

The same is reproduced below:

***“64. Procedure for furnishing information at the Information Collection Centre –***

- (1)

The owner or person in charge of the goods vehicle shall submit before the authorised person at the Information Collection Centre :-

(a) transporter's copy of VAT invoice or retail invoice or delivery challan, as the case may be;

(b) declaration for transport of goods to and from the State in Form VAT-36, in duplicate; and

(c) Goods Receipt or trip sheet or way bill or log book, as the case may be.
- (2)

The authorised person at the Information Collection Centre, shall enter the relevant information in the computer and generate serially numbered computerized printouts of Form VAT-12 or Form VAT-35, in duplicate, whereafter the documents mentioned in sub-rule(1), shall be returned to the person in charge of the goods along with the aforesaid Forms in duplicate.
- (3)

The authorised person shall charge such sum, as may be fixed by the Commissioner from time to time as service charges for issuing the computer printouts in Form VAT-12 or Form VAT-35, as the case may be, from the owner or the person in charge of the goods vehicle.
- (4)

The owner or the person in charge of the goods vehicle,

*shall submit the documents referred in rub-rule(1), in original and copies thereof along with the duly signed copies of Form VAT-12 or Form VAT-35, as the case may be, to the officer in charge of the Information Collection Centre:*

*Provided that no such copies of the documents, shall be required where declaration in Form VAT-36 is submitted.*

(5) *The officer-in-charge of the Information Collector Centre, shall retain the original foil of declaration furnished in Form VAT-36 and a copy of Form VAT-12 or Form VAT-35, as the case may be, and shall return the duly stamped and signed copies of the following documents to the owner or person in charge of the goods vehicle, namely;*

- (a) a copy each of the duplicate copy of VAT invoice or retail invoice or delivery challan and trip sheet or log book or way bill and goods receipt;*
- (b) a copy of Form VAT-12 or Form VAT-35, as the case may be; and*
- (c) duplicate foil of Form VAT-36:*

*Provided that where Form VAT 36 is not required to be submitted under these rules, the officer in charge shall also retain copies of the documents as mentioned in clause (a) and (b). ”*

At Sr. No.6 of the Form VAT-12, the name and address of the Transport Company is required to be entered. At Sr. No. 7 the GR/TR/Way Bill/Log Book/Trip Sheet Number is to be entered. At Sr. No. 8 the GR/TR/Way Bill/Log Book/Trip Sheet date is to be filled. At Sr. No.9, the Vehicle Number is required. If the proviso were meant to cover a person transporting goods otherwise than in a goods vehicle, then there was no need for Form VAT 12 to contain these columns with reference to the Transport Company, GR/TR/Way Bill/Log Book/Trip Sheet Number and date and the Vehicle number.

23. Further, sub- rule (1) of Rule 64 of the Rules which requires submission of documents and Forms at the Information Collection Centre,

sub-rule (3) which deals with charging sums for issuing computer print outs in Form VAT-12 or Form VAT-35, sub- rule (4) which requires that the documents referred to in sub-rule (1) along with the duly signed copies of Form VAT-12 or Form VAT-35 be submitted to the officer in charge of the Information Collection Centre, sub-rule (5) which prescribes that the officer-in-charge of the Information Collection Centre shall retain the original foil of the declaration furnished and return the duly stamped and signed copies thereof, all use the term 'owner or person in charge of the goods vehicle'.

24. This further indicates that just as in Section 51(2) of the Act, the obligation to submit the declaration in terms of the first proviso to Section 51(2) of the Act is also on 'the owner or person in charge of the goods vehicle' and not of any other person who is not 'the owner or person in charge of the goods vehicle'

25. Hence, it is opined that in terms of the provisions at the relevant time, the use of the term 'person' in the first proviso to Section 51(2) of the Act as distinct from 'the owner or person in charge of a goods vehicle' in Section 51(2) of the Act does not foist obligation of furnishing a declaration in terms of the first proviso, on any person when goods are not being transported in a goods vehicle. It is opined that as per the scheme of the Section 51 (at the relevant time), the declaration in terms of the first proviso to Section 51(2) is required to be furnished only by 'the owner or person in charge of a goods vehicle' in respect of goods as are being carried in the goods vehicle for the purpose as mentioned in the first proviso.

26. In the light of the answer to this question, the appeal is allowed.

The proceedings initiated against the appellant are held to be without

jurisdiction.

The orders of the Tribunal dated 20.2.2009 are quashed. The order dated 25.1.2008 of the AETC (MW) Amritsar, imposing penalty of ₹39,07,235/- under Sections 51(7)(c) read with Section 51(12) of the Act on the appellant and the order dated 20.5.2008 of DETC (A), Jalandhar Division dismissing the appeal of the appellant are also quashed.

**(RAJESH BINDAL)**  
**JUDGE**

**(HARINDER SINGH SIDHU)**  
**JUDGE**

**December 19, 2016**  
gian

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No