IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.9090 of 2016 (O&M)
Date of Decision: 14.09.2016

M/s Mahaluxmi Trader .....Petitioner

Versus

State of Haryana & others ....Respondents

CORAM: **HON'BLE MR. JUSTICE RAJESH BINDAL**
HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. Rajiv Agnihotri, Advocate for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana.

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RAJESH BINDAL, J

The present writ petition has been filed impugning the circular dated 14.01.2014 (Annexure P-4) issued by the Excise and Taxation Commissioner, Haryana, directing all the authorities under the Haryana Value Added Tax Act, 2003 (for short "the Act"), for levy of surcharge on the amount of lump sum tax payable by the dealers. The challenge has also been made to the order dated 12.10.2015 (Annexure P-2) passed by the Revisional Authority levying surcharge on the tax paid by the petitioner on lump sum basis.

The petitioner in the present case is carrying on the business of brick kiln.

It is not in dispute that in **CWP No.14681 of 2014** titled as ***Haryana Pradesh Brick Kiln Owners Association Vs. The State of Haryana & ors.*** validity of the circular dated 14.01.2014 issued by the Excise and Taxation Commissioner was challenged and vide detailed judgment of even date passed in the main case bearing **VATAP No.59 of 2014**, titled as **M/s Mahashiv Promoters Pvt. Ltd. Vs. The State of Haryana & ors.**, decided on 08.09.2016, the circular was set aside and it was held that no surcharge is payable by the dealers opting for payment of lump sum tax in view of Section 9 of the Act.

For the detailed reasons recorded in **CWP No.14681 of 2014** (supra), the writ petition is allowed. The impugned order dated 12.10.2015 (Annexure P-2) passed by the Revisional Authority levying surcharge on the petitioner on the amount of lump sum tax already paid by the petitioner, is set aside.

[RAJESH BINDAL]
JUDGE

[DARSHAN SINGH]
JUDGE

14.09.2016
Vinay

Whether speaking/reasoned Yes/No

Whether reportable Yes/No