IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

VATAP No. 92 of 2014(O&M)
Date of decision: 28.11.2016

State of Haryana and anr. .. Petitioners
vs.
M/s Indian Oil Corporation Ltd. .. Respondent

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

Present:- Ms. Mamta Singla Talwar, DAG, Haryana

Mr. Sandeep Goyal, Advocate
for the respondent.

Rajesh Bindal, J.

The State has filed the present appeal raising the following substantial questions of law arising out of the order dated 23.08.2012 passed by the Haryana Tax Tribunal at Chandigarh:-

> "A) Whether Tribunal was justified to review its earlier order dated 11.11.2011 of full member Tribunal.
>
> B) Was Tribunal justified to decide the review application of the dealer following the judgment of Hon'ble Supreme Court in case of Osnar Chemical which was given under Excise Act whereas taxability of a commodity under the Sales Tax Act is to be determined on the basis of provisions of the sales tax act as the purpose of both acts are different.
>
> C) That 'Bitumen' word has not been classified in schedule C in all forms. Whether Tribunal was justified to hold it in all forms?

D) When law is very clear that general scheme of the act is that all the goods are taxable at general rate unless exempted under Schedule 'B' or taxed at lower rate under Schedule 'C'. Since Schedule C restricts the quantum of taxability it needs to be interpreted strictly. Was Tribunal justified in expanding the meaning of "Bitumen"

At the very outset, learned counsel for the State referred to a communication dated 25.11.2016 from Excise & Taxation Commissioner, Haryana to the Advocate General, Haryana stating that the issue raised in the present appeal is squarely covered by the judgment of Hon'ble the Supreme Court in ***Commissoner of Commercial Tax, U.P. vs. M/s A.R. Thermosets (Pvt.) Ltd., 2016 SCC on line SC 907*** against the State, hence, no substantial question of law arises in the present appeal.

Consequently, the appeal is dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

28.11.2016
dinesh

Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No