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

**VATAP No.136 of 2017
Date of Decision:-12.11.2018**

M/s Steel Mongers India (P) Ltd., Faridabad

...Appellant

Versus

State of Haryana and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE MANOJ BAJAJ**

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

Mrs. Mamta Singla Talwar, Deputy Advocate General,
Haryana.

RAJESH BINDAL J.

The order passed by the Haryana Tax Tribunal at Chandigarh dated 21.12.2016 in STA No.414/2014-2015 (Annexure A-4) has been challenged by the Assessee by filing the present appeal.

Following substantial questions of law are sought to be raised :-

i) Whether in the facts and circumstances of the case tribunal has not erred in disallowing the plea of the appellant for providing time for production of statutory declaration forms which are in possession of the petitioner?

ii) Whether in the facts and circumstances of the case tribunal has not erred goring against the settled law that the declaration forms can be produced at any stage?

iii) Whether in the facts and circumstances of the case tribunal has not erred making an observation that the amount of declaration forms in the possession of appellant before the first appellate authority and it should have sought time from the first appellate authority for further production of such declaration and in the absence of such prayer such plea cannot be taken before the Tribunal?

The short ground raised by learned counsel for the appellant is that the statutory declaration forms could not be produced at the appropriate stage for the reason that the Managing Director of the appellant Company went missing when he had gone out for a morning walk. He was the main person looking after the business and the entire record could not be located. Now, the appellant is in possession of the statutory declaration forms, which can be produced before the Assessing Authority, if opportunity is granted so as to file the same. In support of his arguments, learned counsel for the appellant has placed reliance upon a Division Bench judgment of this Court in **Prestolite of India Limited v. State of Haryana, [1988] 70 STC198.**

Learned counsel for the State, on the other hand, submitted that the appellant had failed to produce the statutory declaration forms at the appropriate stage during the assessment proceedings and even failed to produce the same during pendency of the appeal, hence, it should not be granted further opportunity for the same.

After hearing learned counsel for the parties and considering the fact that this Court in **Prestolite of India's** case (supra) has held that the assessee can file declaration forms at any stage of the proceedings including during pendency of the appeal and the object of production of such statutory declaration forms is only levy of tax at concessional rate. The benefit would be available to an assessee only if the genuineness of the statutory declaration forms issued by the seller of goods is verified by the Department. Hence, there cannot be any question of fabrication of any documents at this stage.

Considering the aforesaid fact, we are of the considered view that one opportunity deserves to be granted to the appellant to produce the statutory declaration forms before the Assessing Authority. For that purpose, the appellant may appear before the concerned Assessing Authority on 18.12.2018 or any other date fixed by the Assessing Authority.

The impugned order of the Tribunal is modified to the extent mentioned above. It is made clear that in case of failure by the appellant to produce the statutory declaration forms in its possession, on the date so fixed, no further opportunity shall be granted to the appellant for the purpose.

The appeal is disposed of accordingly.

(RAJESH BINDAL)
JUDGE

November 12, 2018
Vijay Asija

(MANOJ BAJAJ)
JUDGE

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