GURBAX SINGH
2018.09.01 11:00

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP No. 42 of 2018 (O&M)
Date of decision: 17.05.2018

M/s A.P. Processors, Plot No. 103, Sector-24, Faridabad through Sh. Arvind Jain.

……Appellant

Vs.

State of Haryana through The Principal Secretary to Government of Haryana, Excise and Taxation Department, Civil Secretariat, Haryana, Chandigarh and others.

…..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. K.L Goyal, Senior Advocate with Mr. Rohit Gupta, Advocate,
Ms. Mamta Singla Talwar, DAG, Haryana.

Ajay Kumar Mittal,(ACJ)

1. This order shall dispose of VATAP Nos.42 and 44 of 2018, as learned counsel for the parties are agreed that the question involved in both the appeals is identical, which reads thus:-

> "Whether on the facts and in the circumstances of the case, the learned Tribunal was justified in upholding the order of revisional authority which was without jurisdiction as the appeal was pending before the first appellate authority on issues on which assessment order has been revised?

2. Briefly, the facts as narrated in VATAP No. 42 of 2018 are that the Assessing Authority framed the assessment holding that all the dyes and chemicals used in the execution of job work of bleaching and dyeing are transferred as in physical form or as their inherent properties. Therefore, the property in goods passed on in the process of execution of job work should be taxed. Accordingly, the Assessing Officer raised a demand of ₹ 1,92,930/- including interest of ₹ 88,031/- under the Central Sales Tax Act, 1956. Aggrieved by the order, the assessee filed an appeal before the Joint Excise and Taxation Commissioner (Appeals). Meanwhile, during the pendency of the appeal, the assessment order was taken up in suo motu revision by the Deputy Excise and Taxation Commissioner-cum-Revisional Authority on the ground that the Assessing Authority had wrongly calculated tax on transfer of property in the execution of job work of dyes and chemicals. Vide order dated 28.03.2013, the Revisional authority revised the assessment and raised a demand of ₹ 19,65,178/- including interest of ₹ 9,82,589/-. On appeal before the Tribunal, the levy of tax on the entire value of chemicals and dyes used in the process irrespective of the fact whether the property in goods had been transferred or not, was upheld. Hence the instant appeals before this Court.

3. At the outset, learned counsel for the parties submitted that the decision of these appeals shall be governed by the judgment rendered in VATAP No.32 of 2017,(***M/s A.P. Processors, Plot No. 103, Sector-24, Faridabad through its Partner Sh. Arvind Jain vs. State of Haryana through Principal Secretary to Government of Haryana, Excise and Taxation Department, Civil Secretariat, Haryana, Chandigarh)***, decided today. Accordingly, in view of the consensus between the parties, the impugned orders are set aside and the matter is remanded to the revisional

authority i.e. Deputy Excise and Taxation Commissioner to pass a fresh order after hearing the parties in accordance with law, keeping in view the observations made in ***M/s A.P. Processors's*** case (supra). Both the appeals are disposed of accordingly.

(Ajay Kumar Mittal)
Acting Chief Justice

May 17, 2018 **(Tejinder Singh Dhindsa)**
'gs' **Judge**

Whether speaking/reasoned **Yes**
Whether reportable **Yes**