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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-8809-CII-2018 in/and
VATAP No.49 of 2018 (O&M)
Date of Decision: October 22, 2018

M/s Aggarwal Metal Works Pvt.Ltd.

.....Appellant

Versus

The State of Punjab

......Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Mukesh Kumar Verma, Advocate for the appellant.

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RAJESH BINDAL, J.

The assessee is in appeal against the order passed by the Value Added Tax Tribunal, Punjab, Chandigarh (for short,'the Tribunal') dated 17.09.2015 in Appeal No.259 of 2013 under Section 51(7)(b) of the Punjab Value Added Tax Act, 2005 (for short, 'the VAT Act'). The appeal is accompanied by an application seeking condonation of delay 643 days in refiling the same. The assessee has raised the following substantial questions of law:

> "(i) Whether on the facts and in the circumstances of the case, the appellant belonging to Haryana State has made any attempt to evade the tax under Section 51(6)(a) of Punjab VAT Act 2005, which may result in imposition of penalty under Section 51(7)(b) of the Act ibid when there is no violation of Section 51(2) and the vehicle was voluntarily stopped in order to give information at the ICC as required u/s 51(4) of the Act?

(ii)Whether on the facts and in the circumstances of the case, the finding of the learned Tribunal that "the authorities below have taken a correct view of the matter while imposing the penalty" is legally sustainable when the documents produced by the appellant in support of his submissions have not been found ingenuine by the first appellate authority?

(iii) Whether on the facts and in the circumstances of the case, due opportunity of hearing has been provided by the designated officer during the course of enquiry as per the provision of Section 51(7)(b) of the Punjab VAT Act 2005?

(iv) Whether on the facts and in the circumstances of the case, the penalty imposed on the appellant by the designated officer is contrary to the scope, letter and spirit of the provision of Section 51(7)(b) of the Punjab VAT Act 2005?

(v) Whether the impugned order is contrary to the principle of natural justice, equity and fair play in the facts and circumstances of the present case?

(vi) Whether the impugned order is perverse, illegal, unlawful and unsustainable in the eyes of law as being based on no evidences in the facts and circumstances of the present case?

(vii) Whether the authorities below has committed a grave error of law in not considering the material evidences filed by the appellant?"

In the case in hand the goods being transported by the appellant were checked during transit. The appellant had dispatched the goods from Rewari. Those were intercepted on way to Ludhiana, whereas bill had been raised in the name of a firm in Pune. Though the aforesaid discrepancy was sought to be explained by stating that the goods were being sent to Ludhiana for job work, however, in the documents accompanying the goods, there was no such indication. In the absence thereof, the findings recorded by the authorities and the Tribunal imposing the penalty cannot be sought to be erroneous. These are plain and simple findings of fact, which do not give rise to any question of law much less a substantial question of law.

The appeal is accordingly dismissed. Consequently, the accompanied application for condonation of delay in re-filing the appeal is also dismissed.

(RAJESH BINDAL)
JUDGE

October 22, 2018 **(MAHABIR SINGH SINDHU)**
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1. Whether speaking/reasoned ? Yes/No
2. Whether reportable ? Yes/No