IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

VATAP No.50 of 2018 (O&M)
Date of Decision: 11.10.2018

M/s Shiva Cemetech (P) Ltd.

through its authorized signatory-Ajesh Soni, Director

.... Appellant

Versus

The State of Haryana and another

.... Respondents

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

Present: Mr. Sandeep Goyal, Advocate for the appellant.

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RAJESH BINDAL, J. (Oral)

Order dated 18.07.2017, passed by the Haryana Tax Tribunal, Chandigarh (for short-the Tribunal) in STA No. 418/2013-14, for the assessment year 2001-02, has been impugned by filing the present appeal by raising therein the following substantial questions of law: -

> "(i) *Whether on the facts and in the circumstances of the case, the Ld. Tribunal was justified in concluding that appellant had not conducted any job work during the period in question which has been included in the turnover shown by the appellant even through necessary evidence in this regard was duly produced before the Tribunal?*
>
> *(ii) Whether the Ld. Tribunal was wrong in concluding that appellant has made sales of goods by assuming it to be sale of goods based upon figures of pending stock and purchases and closing stock?*"

In the case in hand, the appellant was availing tax exemption as granted under Rule 28-A of the Haryana General Sales Tax Rules, 1975 for the period from 27.12.1994 to 26.12.2003. The total entitlement was ₹ 14,67,336/-. The exemption of the appellant exhausted on 06.06.2001 and thereafter the appellant was required to pay the due tax.

In the first round of litigation pertaining to the subsequent assessment years though initially the entire turn-over was shown to be from purchases and sales, however, when the case was remanded by the first appellate authority, a different stand was taken that the transactions were not entirely on account of purchases and sales as part of them were of job work. However, this plea was declined by the authority while passing the order after remand as well as by the first appellate authority. Both these orders were upheld by the Tribunal by specifically noticing that such a plea had not been raised by the appellant at the initial stage and, therefore, the same cannot be permitted to be raised later-on.

There is no error in the order passed by the Tribunal.

No substantial question of law arises in the present appeal.

Dismissed.

Consequently, the application for condonation of delay in filing the appeal is also dismissed.

(RAJESH BINDAL)
JUDGE

October 11, 2018 **(MAHABIR SINGH SINDHU)**
Gagan **JUDGE**

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