IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

VATAP No.34 of 2019 (O&M)

Date of Decision: 30-10-2019

M/s Surya Tyres & Traders .....Appellant

v.

The State of Union Territory, Chandigarh and others .....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH
HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

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Present: Mr.Mavpreet Singh, Advocate for
Ms.Anjali Bansal, Advocate
for the appellant.

Mr.Ajay Jagga, Advocate
for the respondents.

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JASWANT SINGH, J. (ORAL)

The appellant – a proprietorship firm is engaged in the business of selling of tyres and tubes and as such is registered with Vat Tax authorities, UT, Chandigarh. The Assessing Authority vide order dated 3.11.2017, created an additional demand of Rs.26,64,756/- under the Punjab Value Added Tax Act, 2005 (for short, `the Act'), as applicable to UT, Chandigarh and Rs.1,74,838/- under the Central Sales Tax Act, 1956 (for short, `1956 Act'), while framing assessment under Section 29(4) of the Act for the assessment year 2010-11. The appellant filed an appeal without complying with the condition of pre-deposit of 25 per cent under Section 62 (5) of the Act, resulting into passing of an order dated 25.5.2018 by the First

Appellate Authority dismissing the appeal as not maintainable.

The appellant then approached the Value Added Tax Tribunal, UT, Chandigarh by filing an appeal under Section 63 of the Act, which also dismissed the appeal vide impugned order dated 14.8.2018 on account of the appellant having failed to deposit 25 per cent of additional demand of tax as required by law. Hence, the present appeal under Section 68 of the Act.

This Court issued notice of motion in this appeal in the light of the judgment passed by this Court in **Punjab State Power Corporation Limited v. State of Punjab and others**, (2016)3 PHT 258 (P&H), wherein it was held that the authorities under the Act had the power to waive off the condition of pre-deposit in the light of merits and hardship of the case.

At the time of hearing today, it is conceded by counsel for the parties that the aforesaid Division Bench judgment of this Court has since been over-ruled by the Hon'ble Supreme Court in **Civil Appeal No.7358 of 2019,** titled as **M/s Tecnimont Pvt. Ltd. v. State of Punjab & Others,** decided on 18.9.2019. The position, thus, is that the appellant for maintaining his appeal has to deposit the stipulated 25 per cent of the additional demand.

Counsel for the appellant prays for two months' time for fulfilling the condition of pre-deposit for maintaining his appeal.

Mr.Ajay Jagga, counsel for UT has no objection to the grant of such time.

In view of the aforesaid, the present appeal is disposed of with a direction that in case the appellant deposits the required 25 per cent of the additional demand on or before 31.12.2019, then the appeal shall be entertain and decided on merits by the First Appellate Authority.

(JASWANT SINGH)
JUDGE

(GIRISH AGNIHOTRI)
JUDGE

October 30, 2019

RC

Whether speaking/reasoned? *Yes/No*
Whether reportable? *Yes/No*