IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

VATAP No.47 of 2019 (O&M)
Date of decision:15.10.2019.

M/s Shakti Solvex & General Mills Pvt. Ltd.

..............Appellant.

v.

State of Haryana & Ors.

..............Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Lalit Batra

Present:- Mr. Malkiat Singh, Advocate for the appellant.

Jaswant Singh,J.

The appellant a private limited company is engaged in the business of manufacturing, buying, selling, exchanging, converting, altering, importing, exporting, processing, twisting of all kinds of rice and its by products. The appellant is registered under the Haryana VAT Act 2003 and Central Sales Tax Act 1956. Assessing Authority, Panchkula finalised its assessment for the year 2010-2011 and determined its gross turnover as Rs.3,46,23,525/- vide assessment order dated 31.03.2014 (A-1). The Revisional Authority in revisional proceedings vide order dated 28.03.2016 (Annexure **A-5**) issued notice Under Section 34(1) and 9(2) and finalized the proceedings by penalizing the appellant under Section 38 of HVAT Act 2003 (Tax and Penalty) amounting to Rs.35,16,724/-, as it found cutting/overwriting by using fluid in the amount shown in counterfoil of Form C No.HR/06C-332281. Aggrieved from the same, appellant filed an

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appeal before Haryana Tax Tribunal, Chandigarh which vide order dated 13.11.2018 (A-6) partly accepted the appeal; upheld the impugned revisional order dated 28.03.2016 regarding levy of additional tax of Rs.8,79,181/-. The revisional order was set aside qua levy of penalty amounting to Rs.26,37,543/- under Section 38 of the HVAT Act, 2003. Hence the present appeal, claiming the following substantial questions of law:-

i) Whether in facts and circumstances of the present case, impugned order passed by the Haryana Tax Tribunal is partially erroneous, unjust, incorrect and unsustainable in law and fact?

ii) Whether the turnover of the appellant can be enhanced on the basis of manipulation of C Form by the selling dealer?

iii) Whether the proceedings started under Section 9 (2) of Central Sales Tax Act 1956 and penalty and tax can be imposed on enhanced turnover under Section 38 of the Haryana Value Added Tax Act, 2003?

iv) Whether the principle of double jeopardy is applicable in the present case for a similar transaction once the offence acted by the person (Company) has already been penalized as per laws of land?

v) Whether levy of tax on goods purchased by the appellant at the rate 13.125% instead of 4% is legal or justified?

vi) Whether tax and penalty can be imposed without giving reasonable opportunity of being heard to a party?

vii) Whether the order of the Haryana Tax Tribunal is legal by ignoring the principle of law enunciated by the Hon'ble Supreme Court as

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well as by this Hon'ble Court?

We have heard learned Counsel for the appellant.

After examining the entire evidence on record, it has been categorically recorded by the Tribunal that admittedly the C Form in question for Rs.69,05,809.85/- has been signed and issued by the assessee. Consequently, the assessee is responsible for the entries made in the said C Form and its counterfoil. The assessee in the absence of any material, cannot escape its liability by shifting the entire blame to the selling dealer. Thus the suppression of purchases, corresponding sales and levy of tax by the revisional authority was rightly upheld by Tribunal.

Learned Counsel for the appellant has not been able to point out any error or illegality in the findings recorded by the Tribunal warranting interference by this Court. No substantial question of law arises. Consequently, the appeal stands dismissed.

(Jaswant Singh)
Judge

15.10.2019. **(Lalit Batra)**
joshi **Judge**

Whether Speaking/reasoned	**Yes/No**
Whether Reportable	**Yes/No**

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