IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP 12420/2011
Date of decision:25.11.2019.

Haryana Plast Private Limited
.............Petitioner

v.

The Haryana Tax Tribunal and otherrs
.............Respondents

Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Girish Agnihotri

Present:- Mr.A.K.Sachdeva and
Ms.Ayushi Sachdeva,Advocates for the petitioner.

Ms.Mamta Singla Talwar,DAG Haryana for respondents

Jaswant Singh,J.

Petitioner, a Private Limited Company, is engaged in the manufacturing and sale of PVC Pipes and Fittings, having its factory at Village and Post Office Mathana,Distt.Kurukshetra and registered office at 55,Railway Mandi,Hoshiarpur. It is registered under the Haryana Value Added Tax Act,2003 (for short 2003 Act) and Central Sales Tax Act,1956 (for short 1956 Act). The petitioner Company had set up a new Unit at Village Mathana, District Kurukshetra pursuant to the Industrial Policy formulated by State of Haryana. The said unit went into commercial production on 1.7.1999. The petitioner Company's said Unit as per the Eligibility Certificate was entitled to the benefit of tax exemption on the sale of manufactured goods for a period of nine years from 1.7.1999 to 30.6.2008. The Unit continued to avail the benefit of tax exemption on the sale of manufactured goods until 31.3.2003 under the 2003 Act read with Haryana General Sales Tax Rules,1975 (for short 1975 Rules) when the State of Haryana introduced the Haryana Vat Act,2003 repealing the Haryana General Sales Tax Act,1973.

The petitioner's Unit taking recourse to sub-rule (2) of rule 69 of the Haryana Value Added Tax Rules,2003 in lieu of availing deferment of tax elected to payment of one-half of the tax otherwise due for filing of returns. The dispute involved in the present case is for the year 2007-2008. The Assessing Authority,Kurukshetra-Respondent no.4 vide order dated 28.3.2011 created additional tax liability of Rs.1,73,240/- under the 2003 Act and Rs.28,113/- under the 1956 Act as against Rs.6,15,200/- the petitioner Company had self-assessed. The claim of the petitioner was that it had deposited an excess amount of Rs.4,47,042/- as upfront payment of tax and thus entitled to relief under Rule 69(2) of the VAT Rules. The Assessing Authority held that the benefit of tax concession @ 50% under Rule 69(2) was allowable only against Output tax due/left after adjusting the input tax credit, whereas the petitioner assessee in terms of the Rules claimed that the benefit of tax concession @ 50% has to be allowed against gross output tax due including the input tax credit, for the relevant periods. The other dispute was with regard to the levy of tax on the PVC fittings at 12.5% being covered under different entry than entry No.60 of Schedule C.

Vide order dated 18.7.2011 the instant writ petition was ordered to be considered with VAT Reference Nos.9 and 10 of 2010.

Further vide order dated 17.1.2019 notice of motion was issued.

At the time of hearing learned counsel for the parties are *ad idem* that VAT Reference Nos.9 and 10 of 2010 stand decided by this Court vide order dated 25.7.2014 wherein it has been categorically held that State cannot deny the benefit of input tax credit to the dealer for determining the tax payable by it and accordingly dealer was held entitled to credit for input tax credit while calculating the 50% deferred tax upfront to be paid by it. Learned counsel for the respondents does not dispute that petitioner herein also is entitled to credit for input tax credit, as held in VAT References No.9 and 10 of 2010.

In view of the above, this writ petition is partly allowed and the demand raised by the Assessing Authority,Kurukshetra vide impugned order dated 28.3.2011 is set aside.

(Jaswant Singh)
Judge

25.11.2019. **(Girish Agnihotri)**
joshi **Judge**

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