**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**VATAP 270/2019**
**Date of decision:02.12.2019**

M/s Kundu Construction Company
.............Appellant

v.

State of Haryana and others
.............Respondents

**Coram: Hon'ble Mr.Justice Jaswant Singh**
**Hon'ble Mr.Justice Sant Parkash**

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

**<u>Jaswant Singh,J (Oral).</u>**

Appellant Company is engaged in the construction and repair of roads and bridges in the State of Haryana and other parts of the Country. It is a registered dealer under the Haryana Value Added Tax Act,2003 (for short the 2003 Act). It is also registered under the Central Sales Tax Act,1956 (for short 1956 Act). For carrying out its business activities, it purchases raw material from within the State of Haryana as also out of State of Haryana after paying due VAT/CST. The appellant Company opted a lump sum scheme under the 2003 Act. Excise and Taxation Officer-cum-Assessing Authority-respondent no.5, for the assessment year 2008-2009 vide order dated 20.1.2012 (A-1) framed its assessment as NIL demand. Thereafter, Deputy Excise and Taxation Commissioner-cum-Revisional Authority-respondent no.4 while exercising powers under Section 34(2) of the 2003 Act called the assessment record of the appellant Company for the assessment year 2008-2009. After issuing notice to the appellant company and considering its reply in response thereto, the Revisional Authority vide order dated 23.8.2016 (A-2) raised a demand of Rs.18,69,624/- as “Due Tax” plus interest thereon. The said order (A-2) was challenged in appeal by the appellant before Haryana Tax Tribunal, Chandigarh. However, the learned Tribunal vide order dated 28.3.2019 dismissed the appeal preferred by the Appellant. Hence the present appeal wherein following substantial questions of law have been raised:-

i)Whether the Hon'ble Haryana Tax Tribunal can ignore the apparent error, which is clear on the face of the record regarding the matter being time barred as per the order of respondent no.4?

ii) Whether the Hon'ble Haryana Tax Tribunal has done illegal not deciding the substantial question of law regarding the service of the order upon the appellant?

iii)Whether the Hon'ble Haryana Tax Tribunal has erred in law in not deciding the substantial question of law whether respondent No.4 has taken the case under revision on the basis of audit objection?

iv)Whether in facts and circumstances of the present case, impugned order passed by the Hon'ble Haryana Tax Tribunal is erroneous, unjust, incorrect and unsustainable in the eyes of law and fact?

v) Whether the Hon'ble Haryana Tax Tribunal is justified in accepting the plea of respondent no.4 regarding service of the order upon the appellant after the limitation period expired and this fact completely goes unexplained?

vi)Whether the Hon'ble Haryana Tax Tribunal is legal by ignoring the principle of law enunciated by the Hon'ble Supreme Court as well as by this Hon'ble Court?

Notice of motion is yet to be issued.

At the time of hearing,learned counsel for the appellant seeks permission to withdraw the instant appeal.

Dismissed as withdrawn.

**(Jaswant Singh)**
**Judge**

**02.12.2019.** **(Sant Parkash)**
joshi **Judge**

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