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

VATAP No.41 of 2017 (O&M)
Date of decision:06.11.2019.

M/s Maur Oil & Dal Mill.

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

v.

State of Punjab.

.............Respondent

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

Present:- Mr. Aalok Mittal, Advocate for the Appellant.

Mr. Pankaj Gupta, Additional Advocate General, Punjab.

Jaswant Singh,J.

The appellant a proprietorship concern is an Oil Mill. It purchased certain machinery parts to be used in its mill from M/s Krishna Kolu Udyog Agra. The seller supplied the goods through truck No.HR46-4860 vide invoice no.206 dated 31.08.2015 and GR No.15331 dated 31.08.2015 of M/s M.K. Road Lines. Since the transaction was against Form-C hence CST was charged. The said truck also carried goods of another firm to avoid double freight. The driver voluntarily reached ICC Sardulewala and mistakenly reported the transaction with regard to one bill only. On checking document relating to the appellant-firm were found with the driver and a penalty of Rs.38,500/- under Section 51 (7) (C) of Punjab VAT Act was imposed vide order dated 6.9.2015. The appeal against the penalty order was dismissed by DETC(A). Aggrieved against the same appellant filed an appeal before Punjab VAT Tribunal, Chandigarh which vide order dated 6.10.2016 dismissed the said appeal. Hence the present appeal wherein following substantial questions of law have been raised:-

i) Whether in the facts and circumstances of the case, penalty under Section 51 (7) can be imposed merely on a technical default when there is no attempt to evade tax due under the Act?

ii) Whether in the facts and circumstances of the case, Section 51(7) can be invoked merely on non reporting of the transaction when there is no attempt to evade the tax/

iii) Whether in the facts and circumstances of the case the findings recorded by the Tribunal are perverse/

iv) Whether in the facts and circumstances of the case, an inter-state purchase against C Form can be penalized for non reporting?

v) Whether in the facts and circumstances of the case, the penalty can be imposed under Section 51 on an inter-state purchase of Capital Goods where no tax of Punjab State was involved?

Heard learned counsel for the parties.

After examining the entire evidence on record it has been categorically recorded by the Tribunal that as the documents were recovered during search as the GRs were concealed in the truck and not produced at the appropriate time, therefore, the intention to evade the tax could easily be made out. The relevant findings recorded by the Tribunal read as under:-

> " Admittedly, the goods contained in the vehicle were covered by two invoices No.50 dated 1.9.2015 issued by

M/s Shri Ganesh Castings Dholpur (Raj.) in favour of M/s Tilak Oil and General Mills, Mansa Mandi (Punjab) and invoice No.206, dated 31.08.2015 issued by M/s Krishna Kolhu Udyog, Agra in favour of M/s Maur Oil & Dal Mills, Mansa Mandi. The driver had different instructions regarding the generation of the goods at the ICC from different consignees. The driver Baljit Singh admitted before the Detaining Officer that he did not generate bill no.206, dated 31.08.2015 as he had such instructions from the owner of the goods. The invoices as well as the GRs were concealed in the truck and were not produced at the appropriate time. The documents were manually prepared and it was only on search of the truck that these documents were recovered. The driver did not disclose to the ICC Authorities about these documents of his own. Therefore, the intention to evade the tax can easily be made out. ”

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

06.11.2019. **(Girish Agnihotri)**
joshi **Judge**

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