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

VATAP 231/2018 (O&M)
Date of decision:16.10.2019.

M/s Shree Ram Trading Co.,Faridabad

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

v.

State of Haryana and others

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

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

Present:- Mr.Rajeev Agnihotri,Advocate for the appellant.

Jaswant Singh,J.

This order shall dispose of *2 appeals detailed in the foot note of this order, as common questions of law and identical facts are involved in both these appeals. However, for the sake of convenience, facts are being noticed from VATAP 231 of 2018.

Appellant, a proprietorship concern was registered under the Haryana VAT Act, 2003 as well as under the Central Sales Tax Act,1956. Its assessment for the year 2006-07 was framed by the Assessing Authority,Faridabad vide order dated 30.11.2009 under the Haryana VAT Act, 2003 as well as Central Sales Tax Act,1956. In revision proceedings the Revisional Authority, on account of suppression of Sales under the VAT Act as well as CST Act,1956 created additional demand by taking turnover of the Central Act in Local Act while turnover under the Central Act,1956 was shown as nil. It is grievance of the appellant that two Acts are separate in existence and if there was turnover under the Central Act, it could not be revised under the Local Act and if there was no turnover under the Local Act, it could not be revised. It is also grievance of the appellant that there is no provision for revision of assessment framed under Section 6-A of the Central Sales Tax Act,1956 till 2010 hence the exercise of revisional jurisdiction is illegal. With these grievances the appellant filed appeal before the Haryana Tax Tribunal. However, the learned Tribunal vide order dated 8.1.2018 rejected the appeal. Hence the present appeal,raising following substantial questions of law:-

i) Whether in the facts and circumstances of the case Revisional Authority has not exercised powers without there being any provision, empowering it to take Central Act turnover under the Local Act which could at best be under reassessment?

ii) Whether in the facts and circumstances of the case Revisional Authority has not assumed jurisdiction without there being any provision, empowering it to exercise revisional powers upto year 2010, when specific provisions were introduced?

iii) Whether in the facts and circumstances of the case, there were no powers, extended to the Deputy Excise and Taxation Commissioner by the statute itself, as there was no notification?

iv) Whether in the facts and circumstances of the case, apparently no opportunity was extended to the appellant by the Revisional Authority?

Heard learned counsel for the appellant.

The grievance of the appellant sought to be raised by way of substantial questions of law herein has already rightly and effectively been addressed by the learned Tribunal. The learned Tribunal while dismissing the appeal of the appellant has noticed that perusal of revisional notices issued by the Revisional Authority revealed that the Revisional notices were issued under both the Acts i.e. the CST Act and the HVAT Act and not merely under the CST Act, and, therefore, tax could be levied under both or either of the said Acts. It was observed that Section 6 A of the CST Act was not attracted to the case of the appellant because the said provisions applies where there is movement of goods from one State to another and in the case of appellant there was no movement of goods from one State to another state and rather the appellant claimed consignment sales without actual movement of goods because even the consignment agent, through whom the goods were allegedly moved, did not exist and F Forms submitted by the assessee in support of claim of consignment sales were also fake and bogus. Thus, there being no inter state movement of goods and no interstate sale or transaction, tax has rightly been levied by the Revisional Authority under the Local Act i.e. HVAT Act as the goods were sold by the assessee locally within the State of Haryana without accounting for the same. Further, it was also rightly noticed that rate of tax being the same, it did not make any difference if the tax was levied under the Local Act or Central Act.

Learned counsel for the appellant-assessee has not been able to point out any error or illegality in the findings recorded by the Tribunal warranting interference by this Court. Consequently, the appeal stands dismissed.

(Jaswant Singh)
Judge

16.10.2019. **(Lalit Batra)**
joshi **Judge**

*** 1. VATAP 231/2018 (O&M)**
M/s Shree Ram Trading Co.,Faridabad ***Versus*** Sate of Haryana and others

2. VATAP 232/2018 (O&M)
M/s Shree Ram Trading Co.,Faridabad ***Versus*** Sate of Haryana and others

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