
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

103 **VAT Appeal No.89 of 2018 (O&M)**
Date of decision: February 20, 2019

M/s Khosla Industries Private Ltd.

....Appellant

versus

The State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

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Present: Mr. J.S. Bedi, Advocate for the appellant(s).

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AJAY KUMAR MITTAL, J. (ORAL)

This order shall dispose of VAT Appeal Nos.89 and 98 of 2018 as according to learned counsel for the appellant, the facts and issues involved therein are identical. For brevity, the facts are being extracted from VATAP No.89 of 2018.

2. VATAP No.89 of 2018 has been filed by the appellant-assessee under Section 68 of the Punjab VAT Act, 2005 (in short 'the Act') against the order dated 18.09.2017 (**Annexure A-4**) passed by the Punjab Value Added Tax Tribunal (hereinafter referred to as 'the Tribunal') in Appeal No.288 dated 2016, seeking the following substantial questions of law:-

> "(i) Whether, on facts and circumstances of the case, the Ld. Tribunal was justified in not following the judgment of the Hon'ble Punjab and Haryana High Court in the matter of PSPCL vs. State of Punjab, wherein it was held that the Appellate Authority has

the power to waive the condition or pre deposit in deserving and appropriate cases?

(ii) Whether on the facts and circumstances of the case, Tribunal was justified by not discussing all the grounds of appeal mentioned in the Memorandum of Appeal inspite of judgment in the case of M/s Darbara Singh Chain Singh vs. State of Punjab reported in 10-PHT Page 68?”

3. A few facts relevant for the decision of the controversy involved as narrated in VATAP No. 89 of 2018 may be noticed. The appellant is a dealer having TIN No.03151156647 and is engaged in the business of manufacturing/resale of atta, maida suji and its by-products. It had filed its quarterly and annual returns for the year 2013-14. The Excise and Taxation Officer, Batala-respondent No.3 had framed the assessment for the year 2013-14. The appellant appeared and made a request that the similar matter is pending before the Supreme Court in SLP No.18947 of 2006 in 'M/s Arvind Julka and others vs. State of Punjab' related to the Purchase tax. Though the assessing officer-respondent No.3 framed the assessment vide order dated 05.11.2015 (*Annexure A-1*), raising an additional demand of ₹ 32,25,074/- under Section 29(2) of the Act. The said assessment was challenged before the Deputy and Taxation Commissioner(Appeals), Jalandhar i.e. respondent No.4 who vide order dated 29.09.2016 (*Annexure A-2*) dismissed the appeal under Section 62(5) of the Act. Aggrieved thereby, the appellant filed an appeal before the Tribunal whereby vide order dated 18.09.2017 (*Annexure A-4*), the same was partly accepted and directed the appellant to make pre-deposit of ₹ 6 lakhs in lumpsum within one month from the date of order as offered by it. Hence the instant appeal.

4. Vide impugned order dated 18.09.2017 (***Annexure A-4***), the Tribunal had directed the appellant(s) to make pre-deposit of ₹ 6 lakhs and

₹ 2 lakhs in VAT Appeal Nos.89 and 98 of 2018 respectively in lumpsum on the basis of offer made by it. It was also directed that after making deposit of the said amount, the First Appellate Authority would hear and decide the appeals on merits. On failure to do so, the order passed by the First Appellate Authority shall remain intact.

5. After hearing learned counsel for the appellant(s) and perusing the record, we do not find any illegality or perversity in the aforesaid findings recorded by the Tribunal which may warrant interference by this Court. No substantial question of law as claimed by the appellant(s) arises in this appeal. Consequently, finding no merit in the appeals, the same are hereby dismissed.

6. In view of the dismissal of the appeals on merits, no order is required to be passed in the applications for condonation of delay in filing the said appeals.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

February 20, 2019
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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No