

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

CWP No.9834 of 2020

Date of Decision:-04.12.2020

Tata Chemicals Ltd.

.....Petitioner.

Versus

State of Haryana & Anr.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present:- Mr. Amrinder Singh, Advocate for the Petitioner.

Mr. Raman Sharma, Additional Advocate General, Haryana.

JASWANT SINGH, J.(ORAL)

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court]

Prayer in the present petition is for quashing the ex-parte assessment order dated 31.01.2020 (P-1) passed by respondent no 2- Assessing Authority, Hisar alongwith the demand notice dated 31.01.2020 (P-2) issued by it under the Haryana Value Added Tax Act, 2003 and Central Sales Tax Act, 1956 raising a demand of Rs.8,14,20,306/- for the financial years 2016-2017. Plea taken by petitioner is that impugned order/ notice has been passed behind the back of petitioner and without following the principles of natural justice; as also on the ground that order is an ante-dated one and thus passed beyond limitation.

Considering the pleadings and arguments raised by the parties,

we had passed the following order on 01.12.2020:

“ After hearing counsel for the parties, it is apparent that the intimation of the notice dated 25.11.2019 fixing the case for hearing on 5.12.2019 was uploaded on an email address of an official, which stood deactivated since 28.2.2018. Still further, there is absolutely no explanation as to the uploading of the purported order passed on 31.1.2020 by the Assessing Officer not uptill 28.4.2020 lending credence to the plea that the impugned assessment order creating a demand was ante-dated.

Before recording any adverse observations on the part of the Assessing Authority, we afford an opportunity to the authorities for permitting the rectification of the order under Rule 12(7) of the Central Sales Tax (R&T) Rules, 1957 by providing an opportunity to the petitioner/assessee to furnish his Statutory Form 'C' and 'F' supporting the concessional rate of tax of sales in the returns submitted for the Financial Year 2016-2017.

At this stage, Mr. Raman Sharma, learned Additional Advocate General, Haryana, prays for two days time to have instructions.

List on 4.12.2020. ”

Today, Mr. Raman Sharma on instructions from respondents has stated, by referring to the pleadings that the notices were served on the counsel appearing on behalf of the petitioner-company and therefore the Company cannot be permitted to raise the plea regarding non-receipt of notices although its email ID was de-activated. Apart from that, it is also pleaded that petitioner had submitted incomplete return for 2016-17 as all claims including Forms C, F, H etc were required to be submitted either alongwith return or Forms C & F could be submitted within 90 days seeking rectification. These were not submitted despite various notices issued to the petitioner-company, rather the petitioner altogether ignored these notices.

However, he fairly states that in view of the decision rendered

by this Court in CWP No. 12426 of 2008 titled as **R.S Cotton Mills Vs State of Punjab** decided on **24.09.2008** which further relies upon decision given in **Prestolite India Ltd. Vs State of Haryana and others (1988) 70 STC 198**, whereby it has been held that C or D forms could be filled even after the filing of the return or at the appellate state and same could be taken cognizance of, the petitioner can claim rectification even now.

Ld. Counsel for both the parties are also agreeable on the stand taken by the State today regarding submission of statutory C or D or F forms in the rectification proceedings, without objection of delay provided rectification application is filed within some reasonable time.

Consequently, without going into the controversy regarding receipt of notices etc, we dispose of the petition by directing respondent no. 2-Assessing Authority, Hisar to pass a fresh order on merits on the rectification application, by permitting petitioners to submit statutory Form C & F in support of the return filed for Assessment Year 2016-17, in accordance with law, in case the petitioner files for rectification within a period of three weeks from receipt of certified copy of this order.

With these observations, the present writ petition is **disposed off**.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

December 04, 2020
Vinay

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No