IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 17.02.2020.

(1) CWP No. 19819 of 2018

M/s Astron Polymers Pvt. Ltd., Faridabad.

.......Petitioner

Vs.

State of Haryana and others

......Respondents

(2) CWP No. 31454 of 2018

M/s Eicher Motors Ltd., Faridabad.

.......Petitioner

Vs.

State of Haryana and others

......Respondents

(3) CWP No. 23797 of 2018

M/s. Exxon Mobile Lubricants Pvt. Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(4) CWP No. 23810 of 2018

M/s. HPL Electric & Power Pvt. Ltd., Sonepat

......Petitioner

Vs.

State of Haryana and others

......Respondents

(5) CWP No. 23836 of 2018

M/s. Bikanervala Food Pvt. Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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(6) CWP No. 23849 of 2018

M/s. Unique Plywood Pvt. Ltd., Halalpur

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(7) CWP No. 27175 of 2018

M/s. Studds Accessories Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(8) CWP No. 2219 of 2019

M/s. HPL Electric & Power Pvt. Ltd., Dhaturi

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(9) CWP No. 2224 of 2019

M/s. HPL Electric & Power Pvt. Ltd., Kundli

.....Petitioner

Vs.

State of Haryana and others

......Respondents

(10) CWP No. 7259 of 2019

M/s. Sidh Masterbatches Pvt. Ltd., Faridabad

......Petitioner

Vs.

State of Haryana and others

.....Respondents

(11) CWP No. 5997 of 2019

M/s. Petcon Thermal Pvt. Ltd., Hathin, Palwal

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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(12) CWP No. 8115 of 2019

M/s. Voith Paper Fabrics India Limited
......Petitioner

Vs.

State of Haryana and another
.....Respondents

(13) CWP No. 13718 of 2019

M/s. V.E. Commercial Vehicles Ltd., Faridabad
.....Petitioner

Vs.

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

(14) CWP No. 13732 of 2019

M/s. V.E. Commercial Vehicles Ltd., Faridabad
.....Petitioner

Vs.

State of Haryana and others
.....Respondents

(15) CWP No. 27579 of 2019

M/s. Bikanervala Foods Pvt. Ltd., Faridabad
.....Petitioner

Vs.

State of Haryana and others
.....Respondents

(16) CWP No. 13785 of 2019

M/s. Super Screw Pvt. Ltd., Faridabad
.....Petitioner

Vs.

State of Haryana and others
.....Respondents

(17) CWP No. 15550 of 2019

M/s. Studds Accessories Ltd., Faridabad
......Petitioner

Vs.

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

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(18) CWP No. 19626 of 2019

M/s. Super Screw Pvt. Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(19) CWP No. 19633 of 2019

M/s. K.K. Manhole & Grating Pvt. Ltd., Faridabad

......Petitioner

Vs.

State of Haryana and others

.....Respondents

(20) CWP No. 19648 of 2019

M/s. Exxon Mobile Lubricants Pvt. Ltd., Faridabad

......Petitioner

Vs.

State of Haryana and others

.....Respondents

(21) CWP No. 19663 of 2019

M/s. Anil Rubber Mills Pvt. Ltd., Faridabad

......Petitioner

Vs.

State of Haryana and others

.....Respondents

(22) CWP No. 19666 of 2019

M/s. Pooja Forge Ltd., Faridabad

......Petitioner

Vs.

State of Haryana and others

.....Respondents

(23) CWP No. 19670 of 2019

M/s. Koncrete Products Co., Faridabad

......Petitioner

Vs.

State of Haryana and others

.....Respondents

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(24) CWP No. 19674 of 2019

M/s. IRIS Computers Ltd., Gurugram

.....Petitioner

Vs.

State of Haryana and others

....Respondents

(25) CWP No. 19679 of 2019

M/s. Omega Bright Steel Pvt. Ltd., Faridabad

....Petitioner

Vs.

State of Haryana and others

....Respondents

(26) CWP No. 19696 of 2019

M/s. Omega Bright Steel Pvt. Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(27) CWP No. 19713 of 2019

M/s. Eicher Motors Ltd., Faridabad

......Petitioner

Vs.

State of Haryana and others

.....Respondents

(28) CWP No. 19781 of 2019

M/s. Anil Rubber Mills Pvt. Ltd., Faridabad

......Petitioner

Vs.

State of Haryana and others

......Respondents

(29) CWP No. 19923 of 2019

M/s. Bikanervala Foods Pvt. Ltd., Faridabad

....Petitioner

Vs.

State of Haryana and others

.....Respondents

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(30) CWP No. 19935 of 2019

M/s. Pooja Forge Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(31) CWP No. 28527 of 2019

M/s. Durgesh Industries,Faridabad

.....Petitioner

Vs.

State of Haryana and others

....Respondents

(32) CWP No. 31150 of 2019

M/s. Auto Ignition Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(33) CWP No. 31182 of 2019

M/s. Auto Ignition Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

....Respondents

(34) CWP No. 31183 of 2019

M/s. Auto Ignition Ltd., Faridabad

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(35) CWP No. 28869 of 2019

M/s. UFI Filters India Pvt. Ltd.

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

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(36) CWP No. 28880 of 2019

M/s. Ashok Leyland Limited, Faridabad

......Petitioner

Vs.

State of Haryana and others

.....Respondents

(37) CWP No. 28966 of 2019

M/s. UFI Filters India Pvt. Ltd.

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

(38) CWP No. 32498 of 2019

Kryton Buildmat Company Pvt. Ltd., Gurugram

....Petitioner

Vs.

State of Haryana and another

....Respondents

(39) CWP No. 33617 of 2019

M/s. Jaycee Punching Solutions Pvt. Ltd.

.....Petitioner

Vs.

State of Haryana and others

....Respondents

(40) CWP No. 10739 of 2019

M/s. Voith Paper Fabrics India Pvt. Ltd.

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

(41) CWP No. 12041 of 2019

M/s. Tata Steel Limited, Faridabad

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

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(42) CWP No. 29202 of 2019

M/s. Jyoti Strips Pvt. Ltd.

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

(43) CWP No. 33304 of 2019

M/s. Voith Paper Fabrics India Pvt. Ltd.

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

(44) CWP No. 34904 of 2019

M/s. Precision Hydraulic Engineers, Faridabad

.....Petitioner

Vs.

State of Haryana and others

....Respondents

(45) CWP No. 36768 of 2019

M/s. HPL Electric & Power Pvt. Ltd.

.....Petitioner

Vs.

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sandeep Goyal, Advocate,
Mr. Sachin Sharma, Advocate and
Mr. Rajiv Agnihotri, Advocate
for the petitioner.

Mr. Mamta S. Talwar, DAG Haryana.

AJAY TEWARI, J.(Oral)

1. These set of petitions have been filed against the assessment orders, the primary ground taken is that the Assessing Officer passed this quasi judicial order without application of mind only relying upon circular Annexure P-2 (8.1.2018) which has been styled "Standard Operating Procedures (SOP)"

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in assessment.

2. Learned Deputy Advocate General, Haryana, refers to Section 56 of the Haryana Value Added Tax Act, 2003 (for short 'the Act') and argues that under its Sub Section 2, the State Government or the Commissioner have been given specific power to issue orders, instructions and directions and those are mandatory.

3. Clause-6 of the circular is as follows:

> "(vi) In cases where claims are withheld as mentioned in para (iv) & (v), the claim shall be allowed on receipt of the verification of the transactions as well as declarations. The onus to prove the genuineness of transaction and declarations in these cases will be on the dealer. The assessing authority should not insist for recovery of demand created on account of withholding of the claims for pending verifications and should make endeavour to get the verification of declarations at the earliest from concerned States but not later than six months from the date of the assessment order."

4. In our considered opinion, such condition cannot be imposed for the Assessing Officer who is discharging quasi judicial function and officer has to frame assessment and according to the provisions of the Act and Rules. From the perusal of the impugned assessment order it is apparent that instead of finalizing the assessment as per the provisions of the statute the Assessing Authority had merely relied upon the SOP and calculated the tax due.

5. The assessment framed under Central Sales Tax Act, 1956, is set aside and the matter is remitted back to the Assessing authority to frame the assessment. As an abundant caution it is clarified that as the matter is remitted back the provisions of Section 18 of the Act shall apply.

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6. The petitions are disposed of accordingly.

7. Since the main case has been disposed of, the pending Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

17.02.2020
reema

Whether speaking/reasoned: Yes
Whether Reportable: No

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