104 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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VATAP-276-2018
DECIDED ON:FEBRUARY 25, 2020

M/S CENTURY METAL RECYCLING LTD

APPELLANT

VERSUS

STATE OF HARYANA AND ANOTHER

RESPONDENTS

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

Present: Mr. Rajiv Sharma, Advocate
for the appellant.

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AJAY TEWARI, J (Oral):

At the very outset it was pointed out to learned counsel for the appellant that one of the members of this Bench (Avneesh Jhingan, J) had represented the appellant in some un-related sales tax matters and therefore, this Bench would have no hesitation in recusing from hearing this case, however, Mr. Sharma says that he would have no objection if we hear this matter.

2. The issue in the present appeal is with regard to the imposition of penalty.

3. The brief facts are that the vehicle was stopped and checked on 23.02.2011 and when the documents were scrutinized they pertained to 18.02.2011. The first explanation given by the driver was that the truck had developed mechanical fault and it had taken three days to get it repaired. But on a perusal of the other document found inside the truck it transpired that truck had been moving alongwith bills as well as travelling expenses given to

the driver. Once that story was belied, a new explanation was given which was that actually when the truck reached on 18.02.2011, he was told that the delivery had to be given on 22.02.2011, he waited for two days over there and then came back and was again dispatched on the next date when it was intercepted and therefore, it was not a case of repeat transaction but the goods which had been reversed on 18.02.2011 were the one which were being transported on 23.02.2011. These are pure question of facts.

4. There is no scope for interference in the present appeal, the same is dismissed.

[AJAY TEWARI]
JUDGE

[AVNEESH JHINGAN]
JUDGE

FEBRUARY 25, 2020
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1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No