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

239 **VATAP No.33 of 2019(O&M)**
Date of decision: 25.01.2023

M/S M.L.ENTERPRISES …. Appellant

Versus

STATE OF HARYANA AND ANOTHER …. Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

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

Ms. Mamta Singla Talwar, DAG, Haryana.

****

<u>RITU BAHRI, J. (oral)</u>

The parties are not in dispute that as per the judgment dated 08.09.2016 passed by this Court ***in M/s Mahashiv Promoters Pvt. Ltd. vs. State of Haryana (2016) 55 PHT 172*** while interpreting Section 7A of Haryana Vat Act, 2003, it has been held that surcharge cannot be imposed upon the composite dealers. Since this issue is no longer in dispute between the parties, the sole ground on which the Tribunal had passed the order dated 17.10.2018 (Annexure A-5), is that benefit of this judgment cannot be given on an application which has been made for correction in the order of the assessing officer. Once the respondents have accepted that the appellant being the composite company, is not liable to pay surcharge. The Tribunal was required to examine this legal issue and then pass the order. The Tribunal has dismissed the application only on the ground that it was not a technical mistake. There was no mistake, the application for rectification of the order was not made out. However, this Court after hearing the appeal, the same is allowed, the order dated 05.01.2016, passed by the assessing officer is set aside and the matter is remanded back to the assessing officer to pass a fresh order, in view of the judgment of this Court.

Counsel for the appellant is not pressing any other issue in this appeal relating to the assessment order.

Pending application, if any, also stands disposed of.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
25.01.2023 JUDGE
Jyoti-IV

Whether speaking/reasoned: Yes/No.
Whether reportable : Yes/No