IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210 **CWP-5998-2007 (O&M)**
Date of decision:16.02.2023

M/S THE NAKODAR COOP. SUGAR MILLS LTD. …. Petitioner

Versus

STATE OF PUNJAB AND ORS. …. Respondents

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

Present : None for the petitioner.
Mr. Saurabh Kapoor, Addl. A.G., Punjab.

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RITU BAHRI, J. (oral)

The present writ petition was admitted on 13.11.2007 and was also ordered to be heard along with CWP-20303-2005 and other petitions and said petitions were dismissed on 20.01.2010 and detailed order was passed in CWP-9019-2005.

The petitioner has challenged the imposition of purchase tax imposed by the State Government vide notification dated 27.05.1988 issued by Punjab Government in Gazette dt. 03.06.1988, whereby under Section 17(1) of the Punjab Sugarcane (Regulation of Purchase and Supply), Act 1953, purchase tax was imposed.

This notification has come up for consideration in CWP-9019-2005 titled as ***M/s Indian Surocose Ltd. vs. State of Punjab,*** along with 52 other petitions which had been dismissed by this Court on 20.01.2010 by passing a detailed order. The Division Bench was considering the issue whether provisions of Punjab General Sales Tax Act, 1948 for levy and collection of tax would be applicable on Section 17 of the Punjab Sugarcane (Regulation of Purchase and Supply), Act 1953(for short-the Act, 1953). The three Judges Bench of the Hon'ble Supreme Court in the case of ***Jagatjit Sugar Mills v. State of Punjab and another*** *1995(1) SCC* has held that the sugar mill was liable to pay purchase tax on the sugarcane purchased by it from the growers of the sugarcane. It was held by the Supreme Court that Section 4(1) of the PGST, Act 1948 contemplates levy of purchase tax on all sales and purchases. The provisions of the Act, 1953 being a special Act cannot override the general statute i.e. the PGST Act, 1948.

The Division Bench also referred to the case of ***Govind Sugar Mill vs. State of Bihar, 1999 (7) SCC 76*** passed by two Judges Bench of the Supreme Court and they had interpreted the Bihar Finance Act, 1981 and Bihar Sugar Cane (Regulation of Supply and Purchase) Act, 1981 and held that both the Acts could operate in same feet. Since the PGST Act, 1948 was interpreted by three Judges Bench of Hon'ble the Supreme Court in ***Jagatjit Sugar Mills' case (supra)*** and as per the interpretation adopted by the Supreme Court, it would have binding effect over and above the Act, 1953. Since the question involved in this writ petition is same as already decided by this Court in CWP-9019-2005 titled as ***M/s Indian Surocose Ltd. vs. State of Punjab***, this petition also dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

16.02.2023
Jyoti-IV

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