2024:PHHC:142974-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP-63-2020
DECIDED ON: 04.11.2024

EXCISE AND TAXATION COMMISSIONER HARYANA
.....APPELLANT

VERSUS

M/S PANDIT AUTOMOBILES PVT LTD AND ANOTHER
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Ms. Mamta Singla Talwar, DAG, Haryana.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. The issue raised by the appellant is no more *res integra.* The order dated 23.10.2019 passed by the Haryana Tax Tribunal, Chandigarh to the extent for directing the interest on additional tax demand to be leviable from the date of the order passed in revision, and not from the original date, has been held to be wrongful by this Court in the case titled as ***"Excise and Taxation Commissioner, Panchkula vs. M/s Balaji Motors Hisar and another"*** in **VATAP-129-2017,** decided on 27.04.2023, wherein this Court after considering the entire law relating to Haryana Value Added Tax Act, 2003 and the provisions of Section 14(6) of the Punjab VAT Act, 2005, Sections 32 and 53, held as under:-

> *"__13.__ The above said provision makes it abundantly clear that simple interest at one per cent per month is to be charged if the payment is made within ninety days from the last date specified for the payment of tax and two per cent per month for the whole of the period he makes the payment beyond ninety days. If the tax is not paid as per the Act, the assessee is liable to pay tax*

> *alongwith the interest as per provisions of Section 14(6) of the HVAT Act.*
>
> ***14.*** *The judgment referred to by learned counsel for the appellant in M/s. Faridabad Fabricators (P) Ltd., Faridabad vs. State of Haryana, is directly applicable to the facts of the present case. The assessee was required to pay the tax payable in accordance with the provisions of Section 14 of the HVAT Act and the Rules framed thereunder. Non-payment of tax according to the provision of the Act will certainly amount to failure to make payment of tax which renders the assessee liable to pay interest also as provided in Section 14(6). The liability to pay interest would be from the date the tax was supposed to be deposited by the assessee.*
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> ***15.*** *Keeping in view the above, the instant appeal is allowed and the order dated 03.02.2017 passed by Haryana Tax Tribunal (respondent No. 2) is modified that the interest on the additional demand is leviable from the date of filing of the return. A direction is given to the Assessing Authority to recalculate the interest on the additional demand."*

2. Keeping in view the above, present appeal which is based on similar facts is allowed, and the order dated 23.10.2019 passed by the Haryana Value Added Tax Tribunal is set aside to the aforesaid extent and it is directed that the interest on additional tax demand shall be made leviable from the date of the filing of the return.

3. Pending miscellaneous application(s), if any, shall also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

04.11.2024
Lavisha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*