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

2024:PHHC:038267-DB
CWP-6269-2024 (O&M)
Date of Decision: 18.03.2024

M/s New India Contractors & Developers Pvt. Ltd. …Petitioner

Vs.

State of Haryana and others …Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present Dr. Malkiat Singh, Advocate and
Mr. Narinder Singh Sindher, Advocate for the petitioner.

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SANJEEV PRAKASH SHARMA, J.(Oral)

1. Heard learned counsel for the petitioner.

2. Learned counsel for the petitioner submits that the petitioner does not fall under the definition of authorized dealer and, therefore, would not come within the ambit of Section 7(5) of the Haryana Value Added Tax Act, 2003 and the respondents have wrongly imposed penalty under Section 7 (5) of the Act upon him. It is submitted that the petitioner is a Works Contractor and would, therefore, fall within the definition of VAT Dealer and not an authorized dealer.

3. We have considered the submissions.

4. We find that the petitioner would fall within the ambit of an authorized dealer in terms of sub-Section 2 of Section 7, which reads as under:-

> "(2) The tax payable by a dealer on his taxable turnover in so far as such turnover or any part thereof relates to goods sold to the

> Government or to goods of the description referred to in sub-section (4) sold to a VAT dealer or such other registered dealer as may be prescribed (hereinafter both referred to in this section as 'authorised dealer'), shall be calculated-
>
> (a) if the goods are of the description contained in Scheduled D, at the rate mentioned against such goods, otherwise;
>
> (b) at four per cent or such lower rate applicable on sale of such goods had it been a sale falling under clause (a) of sub-section (1)."

5. Admittedly, the petitioner is providing goods which are sold to the government as Works Contractor. The petitioner was, therefore, required to act accordingly and the penalty imposed upon him in terms of Section 7(5) of the Act, cannot be said to be illegal or unjustified. The contention of learned counsel for the petitioner that the provisions of Section 7 (5) of the Act would have no application upon the petitioner, is found to be without basis as once he is an authorized dealer who has after purchasing goods for any of the purposes as specified in any clauses a, b, and c of sub Section 4, not deposited the amount of tax, would be required to pay the penalty. The case of the petitioner would fall under sub-Section 4 sub clause (b) of the Act.

6. In view thereof, we do not find any reason to in interfere with the present writ petition. The same is accordingly dismissed.

7. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

18.03.2024
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No