211-3 cases

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP-315-2019 (O&M)
Date of Decision:11.12.2024

M/S. K.C. STONE CRUSHING COMPANY, MEWAT.........*Appellant*
V/s.
STATE OF HARYANA AND OTHERS ....*Respondent(s)*

VATAP-313-2019 (O&M)

M/S. K.C. STONE CRUSHING COMPANY, MEWAT.........*Appellant*
V/s.
STATE OF HARYANA AND OTHERS ....*Respondent(s)*

VATAP-318-2019 (O&M)

M/S. K.C. STONE CRUSHING COMPANY, MEWAT.........*Appellant*
V/s.
STATE OF HARYANA AND OTHERS ....*Respondent(s)*

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

Present Mr. Rajiv Agnihotri, Advocate for the appellant(s).

Ms. Mamta Singla Talwar, DAG, Haryana.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. This order shall dispose of these three connected VAT Appeals as the issue involved in these appeals is common.

2. The appellant(s) by way of these Appeals, filed under Section 36 of the Haryana Value Added Tax Act, 2003, has assailed orders dated 18.03.2010, 11.03.2008, 30.03.2009, 05.07.2012 and 31.03.2014 respectively passed for the different assessment years i.e. 2004-05, 2005-06 and 2006-07.

3. Learned counsel for the appellant(s) relies on the judgment passed by this Court in *VATAP-37-2014* titled as ***M/s New Devi Grit Udyog,***

Raiseena, Gurgaon Vs. ***State of Haryana and Others*** decided on 08.09.2015, whereby the case was remanded back on the questions of law framed therein.

4. Learned counsel for the appellant(s) submits that the appellant is entitled for Input Tax paid to the selling registered dealer who paid the same to the Sales Tax Department with complete information mentioning the sales were duly conduced and charged tax against the invoices issued by the Mines and Minerals Department, Haryana.

5. It is stated that M/s. Faridabad Gurgaon Minerals Ltd., Faridabad had been given land on lease and the lessee is also paying the royalty on the same. Once the taxation has already been done, there cannot be double taxation. It is an admitted position that the tax has been charged and paid to the State. Therefore, he prays these appeals to be allowed and the orders dated 18.03.2010, 11.03.2008, 30.03.2009, 05.07.2012 and 31.03.2014 impugned in these Appeals may be set aside.

6. In *M/s New Devi Grit Udyog, Raiseena, Gurgaon* ***(Supra)***, this Court has remanded the case to the Assessing Officer for fresh examination to ascertain the facts mentioned by the appellant therein. The Assessing Officer had earlier declined the benefit on the ground that the name of the buyer and also its TIN number were not mentioned. The relevant extract of the order passed in *M/s New Devi Grit Udyog, Raiseena, Gurgaon* ***(Supra)*** is as under:-

> *"**13.** In such circumstances, we find that the matter requires to be remanded to the Assessing Officer who shall consider the matter afresh and shall not reject the tax invoice only on the ground that it does not contain the name of the buyer and its TIN Number where the buyer is able to justify the genuineness of the transaction by producing evidence before him. Ordered accordingly. Consequently,*

the impugned orders Annexures A.1, A.2, A.4 and A.7 are set aside. All the appeals stand disposed of as such."

7. In the present case also, applying the same principles, we propose to remand the matter back to the Assessing Officer to examine the facts regarding the address, name and TIN Number of the purchasing VAT dealers, as the same were missing in the bill/cash memos furnished by the appellant. The appellant may produce the concerned factual details before the concerned authority for the purpose.

8. Such a proposal is not objected to by the learned State counsel. Accordingly, we direct the Assessing Officer to re-examine and consider the matter afresh and it is directed that he shall not reject the tax invoice only on the ground that it does not contain the name of the buyer and its TIN number in the cash memos and if the buyer is able to satisfy the genuineness of the transaction from the other documents.

9. In view of the aforesaid, all the appeals are ***partly allowed*** and accordingly, orders dated 18.03.2010, 11.03.2008, 30.03.2009, 05.07.2012 and 31.03.2014 which are impugned in these Appeals, are set aside.

10. All pending applications filed in these Appeals shall stand disposed of accordingly.

**[SANJEEV PRAKASH SHARMA]
JUDGE**

**[SANJAY VASHISTH]
JUDGE**

December 11, 2024
Ess Kay

Whether speaking / reasoned	:	*Yes*	/	*No*
Whether Reportable	:	*Yes*	/	*No*