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

**VATAP-38-2011 (O&M)
DECIDED ON: 08.08.2024**

M/S A.N. GAS SYSTEM .....APPELLANT

VERSUS

STATE OF PUNJAB & ANR. .....RESPONDENTS

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

Present: Mr. Rishabh Singla, Advocate,
for the appellant.

Mr. Bhuvnesh Satija, DAG, Punjab, and
Ms. Vidhi Malhotra, Advocate.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. Present VAT appeal is preferred by the appellant, assailing the order dated 15.11.2010 (Annexure A-8) passed by the Chairman, Value Added Tax Tribunal, Punjab, (hereinafter referred to as 'The Tribunal'), whereby the appeal preferred by the appellant was dismissed.

2. The appellant is a dealer, who was duly registered under the provisions of the Punjab Value Added Tax Act as well as under the Central Sales Tax Act,1956 and is engaged in the trading of LPG Valves.

3. The appellant submits that he notified the Assessing Authority in Moga about sending goods on consignment, with a copy received on 22.02.2009. The goods, invoiced at Rs. 15,00,000 on 23.02.2009, were accompanied by Form VAT-47 issued by the Rajasthan Government sent by the Rajasthan Dealer to the Punjab Dealer. On 24.02.2009, the goods were detained at ICC for document verification. The appellant provided required

documents before the Enquiry Officer, but a penalty of Rs. 4,50,000 was imposed under section 51(7)(b) of the Punjab VAT Act on 09.03.2009. Appeals to the First Appellate Authority on 21.05.2010 and the Punjab VAT Tribunal on 15.11.2010 were dismissed.

4. Learned counsel for the appellant submits that the Tribunal has failed to take note of the fact that the appellant himself had surrendered at the barriers. And therefore, it cannot be a case of non-disclosure. The penalty therefore, has wrongly been imposed on the appellant.

5. *Per contra,* learned State counsel has supported the order passed by the Tribunal in which it is stated that the appellant has nowhere mentioned the name of the station where the goods were to reach. Neither, the GR was with the driver nor the destination of the goods was mentioned in the VAT invoice. The appellant has neither charged tax or VAT in the bill nor any agreement of agency was produced. Therefore, the Tribunal has rightly examined the facts of the case and the order passed by it does not want any interference.

6. Although, in the writ jurisdiction, this Court would sparingly use its powers to cause interference in the order passed by the Tribunal, however, in the appeal, this Court can examine the facts also, when a substantial question of law is involved.

7. In the present case, we find that the Tribunal has made the following observations:-

> *"It comes out that LPG valves 1000 pieces with rate 1500 per piece of the value of Rs. 15,00,000/- were being sent to M/s Pahwa Auto Gas. It was not mentioned as to which station the goods were to go. GR*

was not with the driver. However, in the invoice, it was written that the goods were being sent against 'F'- Form. No tax or VAT had been charged in the bill on this ground. No agreement of agency with M/s Pahwa Auto Gas, Sri Ganganagar had been produced. When the goods were sent out side the State without charging tax for interstate sale or VAT for interstate sale and an exemption from payment of tax has been sought to be taken on account of particular facility, then certain provisions are to be complied and the consignor was to remain particular. The documents were not complete in this case. This is no explanation as to why GR was not with the driver and designation station was not mentioned any where in the invoice. The transaction had been treated in a very casual way by the consigner may be with an intention to evade tax. As per section 51(2) of the Punjab VAT Act, driver Incharge of the vehicle has to carry invoice and goods receipt which was not there. No tax had been charged.

In the facts & circumstances of the case, I do not find any merit in this appeal. The same is accordingly dismissed."

8. This Court while examining the similar case titled as ***"M/s Punjab Wools Syndicate vs. State of Punjab and another"***, passed in VATAP-57-2010 (O&M), decided on 18.01.2023, noted that the invoices reflected the inter-state sale. In the present case also, the sales were inter-State but the driver did not possess the Goods Receipt (GR) and no explanation for the same has been mentioned. In the present case, 1000 pieces of LPG valves at the rate of Rs.1500/- per piece valuing Rs.15 lacs were being sent.

9. As per Section 51 (2) of the Punjab VAT Act, the driver In-charge of the vehicle has to carry invoice and GR which were admittedly not available with him, nor any tax has been charged.

10. In the circumstances, judgment passed in **M/s Punjab Wool Syndicate's case (supra)** has no application in the present case as in that case, this Court had found that the driver had produced the invoices and the Court observed that once, he had produced the invoices, he is not expected to give further details relating to the invoices.

11. In the present case as noticed above, the facts are altogether different. In the absence of GR, the authorities have taken a correct course of action and the Tribunal has rightly rejected the appeal of the appellant.

12. Thus, we do not find any reason to interfere with the order passed by the VAT Tribunal as no substantial question of law arises for consideration.

13. Accordingly, present VAT appeal stands dismissed.

14. Pending miscellaneous application(s), if any, stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

08.08.2024
Lavisha

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