IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

VATAP-45-2011
Decided on : 22.10.2024

State of Punjab and another

. . . Appellant(s)

Versus

M/s Jain Shawls

. . . Respondent(s)

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

PRESENT: Mr. Saurabh Kapoor, Addl. AG, Punjab.

Mr. Deep Inder Singh Walia, Advocate
for the respondent(s) – assessee.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. Penalty imposed for non-declaration of goods, which at the entry point in State of Punjab, by the respondent, who was carrying goods in a passenger bus, was set-aside by the VAT Tribunal vide its order dated 04.01.2010, against which, the present appeal has been filed by the Department.

2. We find that the goods were worth Rs.3,81,567/-, for which, a penalty has been imposed of a sum of Rs.1,90,788/-. The case of the respondent before the Tribunal was that he was purchaser of goods and was carrying the goods in a bus and had no control on the bus driver. He had an invoice with him and VAT as applicable had been charged by that firm, who sold the goods and there was no intention to evade the tax. Declaration at the centre was not possible and the bus being a public transport could not be stopped at the ICC and that non-compliance of provision of Section 51(2) of

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the Punjab VAT Act, 2005, was un-intentional. The Tribunal has accepted the plea of the respondent and hence, the penalty was waived off. The State challenges the order of waiver.

3. The contention of the learned counsel for the appellant is that the goods were being carried without invoice and were un-accounted. However, we find that the said aspects are factual and noticed by the Tribunal otherwise. It has given a finding that respondent-assessee purchased the goods from M/s Essma Felts Pvt. Ltd., G.T. Road, Rai, District Sonepat (Haryana), and had been making payments by cheques. The transactions were being duly accounted in the books of accounts and the person, who was carrying the goods had invoice with him, giving all the details of the goods being carried. The VAT has also been deducted.

4. We, therefore, agree with the factual findings of the Tribunal that there was no attempt to evade the tax. Accordingly, we do not find any force in the appeal, the same is accordingly dismissed.

Pending misc. application(s), if any, also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

October 22, 2024
J.Ram

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

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