2025:PHHC:092691-DB

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

**CM-354-CII-2022 in/and
VATAP-1-2022
Date of Decision: July 23, 2025**

State of Haryana ….. Appellant

Versus

M/s City Textile Industries, Faridabad and another ..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

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

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<u>LISA GILL, J.</u>

1. Prayer in this appeal is for setting aside order dated 30.08.2018 passed by Ld.Haryana Tax Tribunal, Chandigarh (for short – 'the Tribunal').

2. Brief facts necessary for adjudication of matter are that Excise and Taxation Officer-cum-Assessing Authority, Faridabad (East) framed scrutiny assessment of respondent No. 1 – Firm under Section 15(3) of Haryana Value Added Tax Act (for short – 'HVAT Act') and under The Central Sales Tax Act, Act (for short – 'CST Act'). Vide one order dated 28.03.2016, Assessing Authority created demand of Rs.3,06,602/- under HVAT Act and Rs.15,45,572/- under CST Act. Appeal filed by respondent No. 1 was dismissed by First Appellate Authority i.e. Joint Excise and Taxation Commissioner (Appeals),

Faridabad vide order dated 16.08.2017. Learned Tribunal, however, allowed the appeal filed by respondent No. 1, vide impugned order dated 30.08.2018. Orders passed by the authorities were set aside and matter remanded to Assessing Authority for fresh decision in view of judgment dated 17.05.2018 passed by this High Court in VAT Appeal No. 32 of 2017 titled as M/s A.P. Processors, Faridabad versus State of Haryana. Vide decision dated 17.05.2018, ninety four (94) VAT appeals, with lead case being VAT Appeal No. 32 of 2017 were decided. Substantial questions of law as raised in the said appeals read as under:-

> "(i) Whether on the facts and in the circumstances of the case, the learned Tribunal was justified in upholding the levy of tax on chemicals used as consumables in the process of job work of dyeing of fabric by assuming that property in the goods has passed on to the principals?
>
> (ii) Whether on the facts and in the circumstances of the case, the learned Tribunal was justified in upholding the levy of tax on the entire value of dyes used by the appellant in the job work process of dyeing of fabric ignoring the quantity of dyes which are wasted during the process in which property is not transferred to the principals?
>
> (iii) Whether on the facts and in the circumstances of the case, the findings of learned Tribunal are perverse insofar as it has been held that property in the goods i.e. dyes and chemicals is transferred to be principals in the job work of dyeing the fabric?
>
> (iv) Whether on the facts and in the circumstances of the case, the learned Tribunal was justified in placing reliance upon the judgment of Hon'ble Bombay High Court in the case of **Commissioner of Sales Tax Vs. Matushree Textiles Limited**, ignoring that the said judgment dealt with applicability of works contract tax and not quantity of goods on which tax is to be levied?"

3. It was concluded by Division Bench of this Court as under:-

> "26. Having arrived at the conclusion that chemicals used in the job work are taxable but the pertinent question to be answered would be as to how much of dyes/colours are taxable which is transferred to the fabric when the whole quantity of consumable is

not transferred. In the present case, it would be essential to determine the value of consumables transferred in the goods on which tax is leviable. While determining the actual loss of chemicals, dyes and colours where the fabric or textile undergoes various processes depends upon factual aspect which can be considered only by the Assessing Officer where parties can produce evidence in respect of their respective claims/contentions."

4. In view of above, impugned orders in the abovesaid appeals were set aside and matter remanded to Assessing Officer as under:-

" The matter is remanded to the Assessing Officer to work out the details of quantity of chemicals, dyes and colours that would get washed out in the process of dyeing and printing of fabrics undertaken by the appellant. The Assessing Officer would conduct a factual enquiry in this regard after giving liberty to the parties to produce evidence in respect of their respective contentions. Thereafter, he would be at liberty to proceed in the matter for adding the percentage of chemicals, dyes and colours in the value of the turnover which are retained or embedded on the textile or fabrics, as the case may be, in accordance with law. The Assessing Officer shall do so after examining the relevant statutory provisions and the case law on the point as noticed hereinabove. All the appeals stand disposed of accordingly."

5. It is a matter of record and fairly so stated by learned counsel for appellant that questions of law as raised in the present appeal are in effect identical as the once raised in VAT Appeal No. 32 of 2017 and connected matters. Questions of law as raised in this appeal read as under:

(a) Whether 'what is taxable under the HVAT Act and CST Act, is the value of the goods which get transferred to the customer in the execution of works contract either as goods or in any other form?

(b) Whether the impugned order is just, legal and fair?

(c) Whether the impugned order is sustainable in the facts and circumstances of the case?

(d) Whether the impugned order is sustainable in view of the fact that there is admitted transfer of goods in execution of job contract?

(e) Whether the impugned order is sustainable in view of the fact that the categoric finding of fact has been returned by the courts/authorities below to the effect that entire property of goods used in the process i.e. dyes/colours/chemicals are transferred to the fabric in some form or the other?

(f) Whether the impugned order is contrary to the relevant case law on the subject?

6. It is brought to our notice that SLP(Civil) No. 8673 of 2019/Civil Appeal No. 1311 of 2020 filed by appellants challenging decision dated 17.05.2018 was dismissed by Hon'ble the Supreme Court on 10.07.2023. Order dated 10.07.2023 reads as under:-

> " There is a delay of 491 days in Diary No.46207/2019.
>
> We have heard learned counsel for the Appellants-State and learned counsel for the respondent at length in all these cases.
>
> These matters are filed as against the order of remand to the Assessing Officer passed by the High Court with a direction to hear the parties concerned and to pass fresh orders in the matters. In other words, the matters have been remanded to the Assessing Officer to consider the case of the assessees as well as of the Appellants herein and to pass fresh orders in terms of the directions issued by the High Court in Paragraph 27 of its detailed order dated 17.5.2018.
>
> We do not find any reason to interfere with the impugned orders.
>
> Accordingly, the Civil Appeals and the connected matter stand dismissed.

Needless to observe that all contentions on both sides are left open before the Assessing Officer.

Consequently, all pending application(s), if any, stand dismissed."

7. It is specifically mentioned in Grounds of Appeal in the present matter that as the matter is pending before Hon'ble the Supreme Court, proceedings in present appeal should be kept in abeyance till decision thereof. This appeal was adjourned sine die on 19.01.2023 to await the decision of Hon'ble the Supreme Court in pending matters as above.

8. Learned counsel for appellant is unable to deny that matter is squarely covered against the appellant in view of decision dated 17.05.2018 which has been upheld by Hon'ble the Supreme Court vide order dated 10.07.2023.

9. Questions of law as raised are answered accordingly. Impugned order dated 30.08.2018 passed by learned Tribunal is, accordingly, upheld.

10. As the matter has been adjudicated upon on its merits, application seeking condonation of delay of 476 days in filing the appeal is rendered academic and is disposed of accordingly.

11. Present appeal is, accordingly, dismissed.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

July 23, 2025
Rts

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No