IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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VATAP-13-2014

Reserved on: February 03, 2025
Pronounced on: March 03, 2025

M/S LAXMI STEEL, FARIDABAD (HARYANA)

.....APPELLANT

V/S

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLR MR. JUSTICE ARUN PALLI
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Rajiv Agnihotri, Advocate,
for the appellant.

Ms. Mamta Singla Talwar, DAG, Haryana.

SUDEEPTI SHARMA, J.

1. The present appeal under Section 36 of The Haryana Value Added Tax Act, 2003 for the assessment year 1999-2000 is preferred against orders dated 29.08.2003, 02.05.2007, 07.04.2010 and 06.09.2013.

2. The brief facts of the case are that the appellant filed Income Tax returns under the Haryana General Sales Tax Act, 1973 as also under the Central Sales Tax Act, 1956. The present case is related to the Central Sales Tax Act, 1956, wherein, the appellant claimed sales under concessional rate of tax against declaration in Form 'C' i.e. exemption from tax in sale in transit and regarding Camp sales.

3. As per the contention of the appellant, the business of the appellant was lying closed and hence the notice was not received and the case was decided *ex-parte* vide order dated 29.08.2003 passed by E.T.O.-cum-Assessing Authority,

Faridabad, whereby a demand of Rs. 55,22,542/- was created. On receipt of the order, the appellant filed application for rectification of the assessment order. The order dated 29.08.2003 creating an additional demand of Rs.55,22,542/- under the Central Sales Tax Act was rectified vide order of rectification dated 30.08.2005. Since the appellant produced Form ‘C’ to the tune of Rs.47,44,125/-, the order was rectified and the appellant was directed to make the payment of Rs.53,80,219/- vide order dated 30.08.2005. The appellant challenged order dated 30.08.2005 before the Joint Excise and Taxation Commissioner (Appeals), Faridabad, on the ground that the appellant was in possession of declaration Form ‘C’ and more time be given to him to produce the balance forms, because of non-production of which, the demand to the extent of Rs. 53,80,219/- was created vide rectification order dated 30.08.2005. The Joint Excise & Taxation Commissioner (Appeals), Faridabad dismissed the appeal filed by the appellant vide order dated 02.05.2007 on the ground that the appellant was granted sufficient time to produce Form ‘C’. The appellant challenged order dated 02.05.2007 passed by the Joint Excise & Taxation Commissioner (Appeals), Faridabad before the learned Haryana Tax Tribunal at Chandigarh. Learned Tribunal dismissed the appeal filed by the appellant vide its order dated 07.04.2010 since the appellant was not in possession of Form ‘C’ when asked for by the learned Tribunal. The appellant filed review application in order dated 07.04.2010 passed by the learned Tribunal and the application of the appellant was rejected vide order dated 06.09.2013 on the ground that there is no mistake apparent on record to review its order. Hence, the present appeal.

4. Learned counsel for the appellant contends that the learned Haryana Tax Tribunal erred in not allowing further time for production of declaration

forms and other evidences against the claims made in the returns filed, which is against the settled principles of law.

5. Per contra, learned counsel for the State argues on the lines of the impugned orders and contends that the appellant was granted sufficient time to produce the declaration forms.

6. We have heard learned counsel for the parties and perused the whole record of the case.

7. Perusal of the record shows that the appellant could not produce declaration in Form 'C' since the purchasing parties expressed their inability to procure the same from their respective authorities.

8. On being asked by this Court regarding the possession of declaration in Form 'C', learned counsel for the appellant contends that the appellant is in possession of the declaration Form 'C' pertaining to the assessment year 1999-2000 and the same can be produced before the Assessing Authority.

9. Though perusal of the record shows that the appellant was granted a number of opportunities to produce declaration Form 'C' but it was not able to produce the same before the Assessing Authority, still in the interest of justice and as per the statement of the learned counsel for the appellant, since the appellant is in possession of declaration Form 'C', one last opportunity is granted to the appellant to produce the declaration in Form 'C' before the Assessing Authority.

10. In view of the above, the case is remanded to the Assessing Authority to consider and verify the declaration Form 'C' produced by the appellant and after considering the same, pass a fresh order.

11. Though this Court on various occasions had granted opportunities to the assessee to produce declaration Form 'C' even at the appellate stage before this Court but there is a limit to grant opportunities to produce declaration Form

'C' as well. Since the present case pertains to the assessment year 1999-2000 and the assessment order is dated 29.08.2003, it is made clear that no further opportunity would be granted to the appellant to produce the declaration Form 'C'.

12. In view of above, one last opportunity is granted to the appellant to produce the declaration Form 'C' before the Assessing Authority within a period of two weeks from the date of passing of this order and the Assessing Authority is directed to consider and verify the same and pass a fresh order.

13. In view of the above, the present appeal stands disposed of accordingly.

14. All the pending applications, if any, also stand disposed of.

(ARUN PALLI) **JUDGE**	**(SUDEEPTI SHARMA)** **JUDGE**

March 03, 2025
pj

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