2026:PHHC:068017

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 1368 of 2020 (O&M)
Date of Decision: 01.05.2026

M/s. Indian Oil Corporation Limited, New Delhi

.... Appellant

Versus

M/s. K.C. Spinners Ltd., Village Larsauli,
Tehsil Ganaur, District Sonepat, Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ashish Kapoor, Advocate with
Mr. M.S. Rana, Advocate
for the appellant-plaintiff.

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HARKESH MANUJA, J. (ORAL)

The plaintiff is in appeal. First appeal filed by the plaintiff was dismissed by the learned First Appellate Court. For the sake of convenience, the parties are referred to as per their status in the Civil Suit.

[2] Challenge has been laid to the judgment and decree dated 11.09.2019 passed by the Court of learned Additional District Judge, Sonepat **(hereinafter to be referred as "First Appellate Court"**), whereby an appeal filed by the appellant-plaintiff against the judgment and decree dated 22.09.2015 passed by the Court of learned Additional Civil Judge (Senior Division), Ganaur **(hereinafter to be referred as "trial Court"**), dismissing the suit for recovery of money amounting to Rs. 20,18,492/-, was dismissed, thereby affirming the judgment and decree passed by the learned trial Court.

[3] Case of the appellant-plaintiff is that the plaintiff, a public sector company acquired another company in the name and style of M/s. IBP Company Limited by way of merger in it on 02.05.2007; as a result of merger, the appellant-plaintiff became entitled to all the assets and liabilities of the erstwhile IBP Company Limited. It was submitted that the plaintiff was engaged, *inter alia* in the business of supply and distribution of petroleum products including that of High Speed Diesel (HSD) / Lubricating Oil etc. It was further pleaded that the respondent-defendant/company approached the plaintiff (erstwhile M/s. IBP Company) for supply of High Speed Diesel at concessional rates and thereafter, Haryana Govt. w.e.f 31.03.2003 repealed The Haryana General Sales Tax Act, 1973; however, despite the said repeal, the respondent-defendant continued to claim the exemptions which were granted under the said Act. It was also pleaded that on 24.03.2008, the Assessing Authority passed assessment order for the year 2004-2005 pertaining to the erstwhile M/s IBP Company Limited and resultantly, the plaintiff-Corporation wrote letter to the respondent-defendant company on 24.12.2008, informing that the Assessing Officer rejected the declarations in form VAT D-1, by which, the defendant-company had been purchasing High Speed Diesel in the financial year 2002-2003 and 2003-2004, as the said exemptions were available only till 27.01.2003; as such, the plaintiff requested the defendant-company to pay the differential amount of sales tax/VAT for the years 2002-2003, 2003-2004 and 2004-2005, which amounted to Rs.20,18,492/-; vide letters dated 25.05.2009 and 24.09.2009, but, the defendant-company did not make the payment. Hence, the present suit was filed.

[4] A detailed written statement was filed on behalf of the respondent-defendant, *inter alia,* taking preliminary objections regarding maintainability, locus-standi and jurisdiction. It was pleaded that the appellant-plaintiff continuously supplied High Speed Diesel to the respondent-defendant on concessional rates; no objection regarding exemption of sales tax was raised by the plaintiff-Corporation and High Speed Diesel was supplied to the defendant on deposit of demand draft; and prayed for dismissal of the suit with costs.

[5] Replication was not filed. On the basis of pleadings of the parties, the learned trial Court framed the following issues:-

> *"1. Whether the plaintiff is entitled to recover an amount of Rs.20,18,492/- along with interest from the defendant as prayed for ? OPP.*
>
> *2. Whether the suit filed by the plaintiff is not maintainable in its present form ? OPD.*
>
> *3. Whether the plaintiff has no locus standi or cause of action to file the present suit ? OPD.*
>
> *4. Relief."*

[6] The learned trial Court, vide judgment and decree dated 22.09.2015, dismissed the suit filed at the instance of appellant-plaintiff.

[7] Aggrieved against the same, the appellant-plaintiff filed the first appeal, which also came to be dismissed vide judgment and decree dated 11.09.2019 passed by the learned First Appellate Court.

[8] Impugning the aforesaid judgments and decrees passed by the Courts below, learned counsel for the appellant-plaintiff submits that the defendant-company being purchaser of the High Speed Diesel was bound to pay the demand / differential amount of tax i.e. Rs. 20,18,492/- made by the appellant-plaintiff/Corporation for the years 2002-03 & 2003-04 and 2004-05.

Learned counsel for the appellant-plaintiff further submits that the Haryana Government with effect from 31.03.2003 repealed the Haryana General Sales Tax Act, 1973, yet the respondent-defendant continued to claim the exemptions granted under the said Act which was not permissible.

[9] No other argument has been raised on behalf of the appellant-plaintiff.

[10] After hearing learned counsel for the appellant and having gone through the paper-book / records, I am unable to find substance in the submissions made on behalf of the appellant-plaintiff.

[11] In the present case, the appellant-plaintiff (the erstwhile IBP) admittedly supplied High Speed Diesel to the respondent-defendant at concessional rate during relevant period of years i.e. 2002-03, 2003-04 and 2004-05 and the suit of plaintiff was for recovery of differential amount of tax (i.e. Rs. 20,18,492/-), exemption / concession of which was declined by the Sales Tax Department vide Assessment Orders Ex. P-8 for the year 2004-05, Ex. P-9 (Assessing Authority) for the year 2003-04, Ex. P-10 (Revisional Authority) for the year 2003-04 and 2002-03 Ex. P-10/A (with effect from 27.01.2003).

[12] Upon perusal of the record, it is discernible that learned Courts below after noticing Exemption / Entitlement Certificate issued to the respondent-defendant / company under Rule 28-A of the Sales Tax Rule granting the eligibility certificate to it from 29.03.1996 to 28.03.2005 coupled with its renewal in the shape of Exhibit D-2/A upto 28.03.2005 concluded that the differential amount and the concession given by the respondent-defendant cannot be recovered from it. Besides it, a co-joint reading of ST-73 Form (Ex. P-5) and Ex. D2/A reflects that tax exemption was renewed on annual basis uptill 28.03.2005 and once the certificate whereby the tax exemption was given to the respondent-defendant stood renewed on annual basis upto 28.03.2005, the differential amount / concession given to the respondent-defendant was not to be recovered from it.

[13] So far as the argument raised on behalf of the appellant-plaintiff with regard to continue the exemptions granted under the Haryana General Sales Tax Act, 1973 even after its repealing w.e.f. 31.03.2003 is concerned, the argument is not acceptable in view of the findings recorded by the learned Courts below that notification No. S.O.13/H.A.20/73/S.15/2003 dated 27.01.2003 (Exhibit P-19) is only regarding the amendment and not about repealing of the Act; besides it, this notification also nowhere cancelled or withdrew any of the exemptions granted to any industrial unit under the pre-existing Rule 28A of the Sales Tax Rules or new Rule 69 of the Haryana Value Added Tax Act, 2003. Also, notification-Ex. P-19 nowhere speaks that it will have retrospective effect, so once as per ST-73 certificate (Ex. P-5), the respondent-defendant was exempted upto 28.03.2005, the notification-Ex. P-19 would not bring the defendant in the domain of taxation.

[14] In view of the discussion made hereinabove, finding no illegality or perversity with the findings of the fact recorded by the learned First Appellate Court, there being no ignorance or any mis-interpretation pointed out towards the pleadings and the evidence available on record; the present appeal, being devoid of merits, is hereby **dismissed**.

[15] Pending miscellaneous application(s), if any, shall also stand disposed off.

May 01, 2026 **(HARKESH MANUJA)**
'dk kamra' **JUDGE**

Whether Speaking/reasoned	*Yes/No*
Whether Reportable	*Yes/No*