(1997) 08 P&H CK 0046

In the Punjab And Haryana At Chandigarh

Case No : Sales Tax Case No. 6 of 1997

Data Electric Co. APPELLANT

Vs

State of Haryana RESPONDENT

Date of Decision : 21-08-1997

Acts Referred:
Haryana General Sales Tax Act, 1973 — Section 42(2)

Citation : (1998) 111 STC 247

Hon'ble Judges : N.K. Agrawal, J;Ashok Bhan, J

Bench : Division Bench

Advocate : B.K. Jhingan, for the Appellant;

Final Decision : Dismissed

Judgement

Ashok Bhan, J.—This petition has been filed u/s 42(2) of the Haryana General Sales Tax Act, 1973 (hereinafter referred to as "the Act"), for issuance of a mandamus directing the Sales Tax Tribunal, Haryana, to refer the following three questions of law to this Court for its opinion :

"(i) Whether in the facts and circumstances of the case the honourable Tribunal was right in upholding the order of the lower authority on the basis of wrong fact findings ?

(ii) Whether the Tribunal was right in rejecting the appeal of the appellant when in hundreds of similar other cases the appeals have been accepted ?

(iii) Whether in the facts and circumstances of the case the Tribunal has rightly upheld the imposition of penalty u/s 48 ?"

Although, the questions claimed before the Tribunal were different, the assessee-petitioner has presented before us the reframed questions.

2. Tribunal rejected the appeal filed by the assessee-petitioner by recording the following findings :

"I have considered the submissions of the parties and have also seen the facts on record. It is not denied even by the appellant that the firm to whom the goods had been alleged to had been sold was not registered with the department at Faridabad. This fact has also been admitted by one of the partners of the firm itself. Therefore, it is clear that the declarations furnished by the selling dealer, i.e., the appellant were bogus which were rightly disallowed by the assessing authority. Since the appellant had maintained wrong account books for suppression of sales, penalty too has rightly been imposed. In view of these clear facts on record the appeal has no force and is hereby dismissed."

3. Thereafter, petitioner filed a review petition which was also dismissed by the Tribunal vide order, annexure P5. Petition filed by the assessee u/s 42(1) of the Act was also dismissed by holding that no referable question of law arises.

4. We have perused the order of the Tribunal, relevant part of which has been reproduced above. From its perusal, it is evident that no referable question of law arises from the order of the Tribunal. Findings recorded by the Tribunal are of fact, which call for no interference.

Dismissed.

