(2013) 12 P&H CK 0205

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 15553 of 2011

Jai Hanuman Stone Crushing Mills APPELLANT

Vs

State of Haryana RESPONDENT

Date of Decision : 19-12-2013

Acts Referred:

Citation : (2014) 71 VST 199

Hon'ble Judges : Jaspal Singh, J;Ajay Kumar Mittal, J

Bench : Division Bench

Judgement

Ajay Kumar Mittal, J.—The petitioner is a partnership firm and registered under the provisions of the Partnership Act, 1932. The petitioner is a registered dealer under the provisions of the Haryana Value Added Tax Act, 2003 (for short, "the HVAT Act") as well as the Central Sales Tax Act, 1956 (for brevity, "the CST Act"). As per the averments made in the writ petition, few facts may be noticed. The petitioner-dealer is engaged in the business of running a stone crusher in Village Khanak in District Bhiwani, State of Haryana. The petitioner had filed its returns for the assessment year 2006-07 in time. The Assessing Officer while framing assessment vide order dated March 31, 2010 had created a demand of Rs. 1,68,846 as no input tax on purchases was allowed as the dealer had failed to produce the account books, i.e., tax invoices and form VAT C-4 or form VAT D-1. Thereafter, an appeal before the first appellate authority was filed by the petitioner but the same was dismissed on September 3, 2010 (annexure P3) and the said order was affirmed by respondent No. 3 vide order dated April 15, 2011 (annexure P4). Hence, the present writ petition.

2. The petitioner by way of present writ petition has sought that the demand of Rs. 1,64,846 vide order dated March 31, 2010 (annexure P2) and affirming orders (annexure P3) and (annexure P4), be quashed and liability of the parties be re-determined by accepting the tax invoices and forms VAT C-4/forms VAT D-1 available with the petitioner which were produced before the first appellate authority but the same were illegally ignored.

3. The learned counsel for the petitioner has placed reliance upon the judgment of this court in CWP No. 10329 of 2010 titled as Dow Chemical International P. Ltd. v. State of Haryana [2011] 43 VST 507 (P&H) decided on September 8, 2010, wherein due to certain reasons the dealer was unable to produce the form C and tax invoices before the Assessing Authority but the same could be produced later on and the dealer was entitled for the benefit on that basis. Reliance has also been placed upon the decision of this court of even date in CWP No. 13789 of 2011 (Vijay Cottex Ltd. v. State of Haryana [2014] 71 VST 197 (P&H).

4. The learned State counsel does not dispute the same. Accordingly, the present writ petition is disposed of by holding that the petitioner shall be entitled to produce the tax invoices, forms VAT C-4 and forms VAT D-1 before the Assessing Authority who shall thereafter, determine the tax liability by deciding the matter by passing a fresh order, in accordance with law.