(2004) 08 P&H CK 0175

In the Punjab And Haryana At Chandigarh

Pactite Packaging (I) Pvt. Ltd. APPELLANT

Vs

State of Haryana and Others RESPONDENT

Date of Decision : 03-08-2004

Acts Referred:
Central Sales Tax Act, 1956 — Section 24, 25

Citation : (2008) 11 VST 14

Hon'ble Judges : N.K. Sud, J;Adarsh Kumar Goel, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This writ petition is directed against the order dated November 24, 2003 (annexure P4) passed by the Joint Excise and Taxation Commissioner (Appeals), Faridabad dismissing the review application of the petitioner filed u/s 41 of the Haryana General Sales Tax Act, 1973 (for short, "the Act"). The petitioner had filed an appeal before the Joint Excise and Taxation Commissioner (Appeals), Faridabad, which was decided on March 27, 2002. The petitioner thereafter filed review application claiming therein that the appeal ought to have been transferred to the Central Sales Tax Appellate Authority which had come into being u/s 24 of the Central Sales Tax Act, 1956 with effect from December 3, 2001 and as per the provisions of Section 25 of the Act all pending appeals had to be transferred to the said authority. This application has been rejected on the ground that no such plea was raised at the time of arguing the appeal. We do not approve the ground on which the review application of the petitioner has been rejected. Section 25 of the Act clearly postulates that every pending appeal immediately before the constitution of the Appellate Authority shall stand transferred to the said authority on the date on which it is established. It is not in dispute that the appellate authority was established vide notification dated December 3, 2001. Accordingly, Joint Excise and Taxation Commissioner (Appeals), Faridabad had no jurisdiction to decide the appeal on March 27, 2002.

2. We are of the view that the petition deserves to succeed. We, therefore, set

aside the orders passed by the Joint Excise and Taxation Commissioner (Appeals), Faridabad, dated March 27, 2002 (annexure P3) and November 24, 2003 (annexure P4). Since under the statutory provisions the appeal stands automatically transferred to the appellate authority, the petitioner is directed to appear before the appellate authority on September 7, 2004 for further proceedings. The writ petition stands allowed.