
(2006) 08 P&H CK 0223
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 12760 of 2006

Sankeshwar Hosiery Industry	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 18-08-2006

Acts Referred:

Punjab General Sales Tax Rules, 1949 — Rule 29

Citation : (2006) 08 P&H CK 0223

Hon'ble Judges : Rajesh Bindal, J; Jasbir Singh, J

Bench : Division Bench

Advocate : Avneesh Jhingan, for the Appellant; Urvashi Dhugga, Assistant A.G., for the Respondent

Final Decision : Allowed

Judgement

Rajesh Bindal, J.—The petitioner in this case is a partnership firm, engaged in the business of purchase, sale and manufacturing of yarn. It is duly registered under the provisions of the Punjab General Sales Tax Act, 1948 (for short, 'the Act'). The petitioner claims that after purchasing raw material from within the State of Punjab and after using the same in the manufacturing of finished goods, majority of them are sold in the course of intra-State sales and tax on the finished goods is paid in accordance with law. The petitioner, in the process, had also purchased raw material from certain units (hereinafter described as "exempted units"), enjoying exemption from or deferment of payment of tax granted in terms of the Punjab General Sales Tax (Deferment and Exemption) Rules, 1991 (for short, 'the 1991 Rules').

2. The petitioner further claims that in calculating its taxable turnover, in terms of Rule 29(xii) of the Punjab General Sales Tax Rules, 1949 (for short, 'the 1949 Rules'), deduction thereof is not being allowed by the authorities below on the ground that though the goods purchased by the petitioner are leviable to tax at the first stage of sale and since no tax on the purchase of goods from exempted units has been paid, which is totally contrary to the provisions of law. The

petitioner has further stated that assessment for the year 2001-02 was initially framed by the Assessing Authority vide order dated 30.6.2003 and rebate of the goods leviable to tax at the first stage of sale purchased by the petitioner from the exempted unit was granted under Rule 29(xii) of the 1949 Rules. Thereafter, the petitioner was issued notice for re-assessment. Vide re-assessment order dated 31.3.2005, the deduction already allowed under Rule 29(xii) of the 1949 Rules was disallowed and accordingly additional demand of tax was raised against the petitioner. Appeal filed against the said order was dismissed by the Sales Tax Tribunal-VII, Punjab vide order dated 30.11.2005.

3. Notice of motion.

4. Ms. Urvashi Dhugga, Assistant Advocate General, Punjab accepts notice.

5. We have heard learned Counsel for the parties and perused the record.

6. In C.W.P. No. 2272 of 2006 -Perfect Synthetics v. State of Punjab and Ors., decided on 3.7.2006, arising out of the common order passed by the Tribunal where M/s Perfect Synthetics and the present petitioner were appellants, this Court held that petitioner therein was entitled to deduction under Rule 29(xi) or 29(xii) of the 1949 Rules on account of purchase of goods manufactured by a dealer, who has been allowed the benefit of deferment of or exemption from liability to pay tax under the 1991 Rules. It was further held that the actual payment of tax by the dealer effecting first sale in the State of such goods will not be a condition precedent for deduction of such turnover from the gross turnover for the purpose of arriving at the taxable turnover.

7. For the detailed reasons recorded in M/s Perfect Synthetics" case (supra), the writ petition is allowed; accordingly, the impugned orders passed by the authorities below are set aside to the extent mentioned above and they are directed to pass necessary orders giving effect to the observations made above.