(2008) 10 P&H CK 0122

In the Punjab And Haryana At Chandigarh

Shreyans Spinning Mills APPELLANT

Vs

State of Punjab RESPONDENT

Date of Decision : 21-10-2008

Acts Referred:

Punjab General Sales Tax Act, 1948 — Section 21(1)
Punjab Value Added Tax Act, 2005 — Section 68

Citation : (2009) 22 VST 192

Hon'ble Judges : L.N. Mittal, J;A.K. Goel, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Adarsh Kumar Goel, J.—Delay condoned.

2. Heard on merits.

3. This petition has been filed u/s 68 of the Punjab Value Added Tax Act, 2005 against the order of the Sales Tax Tribunal, Punjab dated November 30, 2005 (annexure P 6).

4. The petitioner-assessee is a registered dealer. For the assessment year 1998-99, the Assessing Authority accepted the returns of the assessee. The revisional authority in exercise of its power u/s 21(1) of the Punjab General Sales Tax Act, 1948 ("the Act") revised the said order and created additional demand. The case of the assessee was that it was entitled to deduction in the turnover under rule 29(xii) in respect of goods subject to payment of tax at first stage u/s 5(1A) of the Act which included goods exempted from tax. This contention of the assessee was rejected on the ground that rule 29(xii) was attracted only if the assessee made actual payment and not when the assessee purchased raw material from the unit which was exempted from tax.

5. We have heard learned Counsel for the parties.

6. Learned Counsel for the assessee has relied upon judgment of this Court in

Perfect Synthetics v. State of Punjab [2007] 6 VST 280 : [2006] 28 PHT 247, which has been affirmed in judgment of the honourable Supreme Court in State of Punjab v. Perfect synthetics [2008] 13 VST 550. The honourable Supreme Court held that words used in rule 29(xii) permitting deduction of purchase value of goods subject to tax, u/s 5(1A), covered the goods which may be exempt from tax. Under the scheme of exemption, the said goods were, at par with goods on which tax was paid.

7. Learned Counsel for the State does not dispute the applicability of judgment of this Court, as affirmed by the honourable Supreme Court. He only submitted that the State proposes to file a review petition against judgment of the honourable Supreme Court.

8. We find that the judgment of honourable Supreme Court was rendered more than seven months ago. Merely on the ground that the State proposes to file review, we cannot ignore the judgment.

In view of the above, this petition is allowed. The impugned order is set aside and the order of the assessing authority is restored.