(2010) 08 P&H CK 0044

In the Punjab And Haryana At Chandigarh

Case No : V.A.T. Appeal No. 47 of 2010 and connected appeal being V.A.T. Appeal No. 53 of 2010

Surindera Steel Sales APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 24-08-2010

Acts Referred:
Punjab Value Added Tax Act, 2005 — Section 51, 51(7)(b), 51(7)(c), 68

Citation : (2011) 44 VST 68

Hon'ble Judges : Ajay Kumar Mittal, J;A.K. Goel, J

Bench : Division Bench

Advocate : K.S. Baghi, for the Appellant;

Final Decision : Dismissed

Judgement

Adarsh Kumar Goel, J.—This order will dispose of V. A. T. Appeal Nos. 47 and 53 of 2010, as both the appeals involve common questions of law. V.A.T. Appeal No. 47 of 2010, has been preferred by the assessee u/s 68 of the Punjab Value Added Tax Act, 2005 (for short, "the Act") seeking quashing of order of the Tribunal, proposing following substantial questions of law:

(I) Whether the AETC Mohali was empowered to pass order u/s 51(7)(c) of the Act when no fresh notification was issued by State Government after the repealing of Ordinance No. 5 of 2005?

(II) Whether the penalty imposed by the AETC Mohali u/s 51(7)(c) of the Act on the basis of past inter-State transaction which has come to an end after taking the delivery of the goods by the appellant is sustainable in law?

(III) Whether the learned first appellate authority is empowered to convert the penalty imposed u/s 51(7)(c) of the VAT Act into penalty u/s 51(7)(b) when he is empowered to quash the penalty imposed by the lower authority?

(IV) Whether the order passed by learned Tribunal is sustainable by law?

(V) Whether the learned Tribunal should have decided the appeal on the merits himself after examining the record and decided all the issues himself?

(VI) Whether the order passed by the AETC Mohali is without jurisdiction?

(VII) Any other question of law which this honourable court may deem fit under the facts and circumstances of the case.

2. On July 1, 2006, designated officer of the Department, acting u/s 51 of the Act, intercepted vehicle of the assessee to ascertain whether there was any attempt at evasion of tax. Finding that the assessee had not given intimation about goods at the check-post and the goods were not accompanied by relevant documents, the goods were detained and the matter was referred for further inquiry. Since account books were not produced and it was admitted that the goods were loaded without any purchase bills, penalty was imposed but the quantum thereof was reduced by the appellate authority. On further appeal, the Tribunal remanded the matter to consider the contention raised on behalf of the appellant that the order of penalty was passed even prior to the date fixed in the show-cause notice. It was also observed that the appellate authority should also go into the question of its competence to convert penalty of 50 percent to 30 percent.

3. We have heard learned counsel for the appellant. His submission is that there was no attempt to evade tax.

4. We find that the Tribunal has only remanded the matter for fresh decision and at this stage, the substantial questions of law proposed on behalf of the assessee do not arise for consideration as the said questions can be raised before the appellate authority.

5. Accordingly, these appeals are dismissed. A photocopy of this order be placed on the file of other connected case.

