(2013) 12 P&H CK 0204

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 13789 of 2011

Vijay Cottex Ltd. APPELLANT

Vs

State of Haryana RESPONDENT

Date of Decision : 19-12-2013

Acts Referred:

Citation : (2014) 71 VST 197

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

Bench : Division Bench

Judgement

Ajay Kumar Mittal, J.—The petitioner, a private limited company incorporated under Companies Act, 1956, is a registered dealer under the Haryana Value Added Tax Act, 2003 (for short, "the HVAT Act") and also under the Central Sales Tax Act, 1956 (for brevity, "the CST Act"). The petitioner was engaged in the business of manufacture of yams and fabrics. Briefly, the few facts as narrated in the writ petition may be noticed. The petitioner had filed all the quarterly returns and also deposited the tax due for the assessment year 2006-07. The petitioner, in these returns has claimed input-tax credit of tax paid on its purchases amongst other claims. The assessment was finalised by respondent No. 4 on March 8, 2010 vide annexure P1, wherein the Assessing Officer had made certain addition on the purchases made by the petitioner as the petitioner had failed to produce form VAT C4 before the Assessing Authority. An appeal was filed against the assessment order, which was dismissed by respondent No. 3 vide order dated October 6, 2010 (annexure P2).

2. Still feeling dissatisfied with the order dated October 6, 2010, second appeal was filed before the Haryana Tax Tribunal-respondent No. 2, whereby the Tribunal vide order dated July 11, 2011 (annexure P4) had partly accepted the appeal except for addition made on account of non-furnishing of form VAT C4.

3. The petitioner feeling aggrieved against the said order has approached this court under articles 226/227 of the Constitution of India.

4. The learned counsel for the petitioner submitted that the petitioner was entitled to claim input-tax credit from 46 parties as the petitioner had made purchases from the said dealers and has also furnished 46 affidavits before this court.

5. Relying 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, it was argued that the petitioner-dealer could file the form C4 even before the appellate authority when he was unable to produce the same before the Assessing Authority and in such a situation, it was proper for the appellate authority to have remanded the case to the Assessing Authority to verify the same.

6. In the present case, 46 affidavits were submitted by the petitioner and an opportunity was given to the State counsel to verify the correctness and authenticity of the same.

7. The learned State counsel submits that the genuineness of the 46 affidavits and form C4 regarding the input-tax credit have been verified by the Department and the same are found to be genuine. Accordingly, we dispose of the present writ petition by directing respondent No. 4 to re-determine the tax liability by taking into consideration form C4, which has been produced by the petitioner and pass a fresh order, in accordance with law.