(2013) 01 P&H CK 0273

In the Punjab And Haryana At Chandigarh

Case No : VATAP No. 61 of 2012

Voith Paper Fabric India Ltd. APPELLANT

Vs

State of Haryana RESPONDENT

Date of Decision : 17-01-2013

Acts Referred:

Citation : (2013) 65 VST 387

Hon'ble Judges : Ritu Bahri, J;Hemant Gupta, J

Bench : Division Bench

Advocate : Sandeep Goyal, for the Appellant; Nitin Kaushal, Additional Advocate-General, Haryana, for the Respondent

Judgement

Hemant Gupta, J.—This order shall dispose of the present appeal filed u/s 36 of the Haryana Value Added Tax Act, 2003 (for short, "the Act") arising out of order dated March 25, 2010 (annexure A4) passed by Haryana Tax Tribunal (for short, "the Tribunal"), whereby the assessee, the present appellant, was found liable to pay VAT at 10 per cent as it failed to apply the correct rate of tax on dryer felts which were not declared goods during the relevant assessment years under the Central Sales Tax Act, 1956 (for short, "the Central Act"). The learned counsel for the appellant has vehemently argued that in the preceding years and in subsequent years to the years of assessment, the dryer felts were "declared goods" under the Central Act, therefore, the appellant would be liable to pay VAT at four per cent and not at 10 per cent, as has been ordered by the Tribunal.

2. We have heard learned counsel for the appellant and find no merit in the arguments raised. Admittedly, for the years in question, the goods (dryer felts), subject-matter of sale were not the declared goods under the Central Act. Therefore, the assessee would be liable to pay VAT as is applicable to goods which are not declared goods. Therefore, the assessee is liable to pay higher rate of VAT, i.e., 10 per cent in terms of the Act. Therefore, we do not find substantial question of law Nos. 1 and 2 arises for consideration in these appeals.

3. The learned counsel for the appellant then argued that in fact the appellant is entitled to furnish form VAT D-1 to avail of the concessional rate of VAT, as sought to be raised in third question of law.

4. We find that no such argument was raised before the revisional authority or before the Tribunal. In fact, such an argument was sought to be raised in an application for review filed before the Tribunal. No such argument relating to question of fact was raised by the appellant before the authorities under the Act or before the order in appeal was passed. Therefore, the appellant cannot be permitted to raise the said question of fact first time in the present appeal. In view of the above, we find that no question of law arises from the order of the Tribunal. But, we give liberty to the appellant to raise such question, as is permissible in law before the appropriate authorities.