

(2009) 10 P&H CK 0112

High Court Of Punjab And Haryana At Chandigarh

Case No: V.A.T.A.P. No. 36 of 2009

State of Punjab and Another

APPELLANT

Vs

Fair Deal Filing Station

RESPONDENT

Date of Decision: Oct. 28, 2009

Acts Referred:

- Punjab Value Added Tax Act, 2005 - Section 13, 14, 68(2)
- Punjab Value Added Tax Rules, 2005 - Rule 25, 25(1)

Citation: (2010) 35 VST 61

Hon'ble Judges: Nirmaljit Kaur, J; M.M. Kumar, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

M.M. Kumar, J.

This appeal filed by the Revenue u/s 68(2) of the Punjab Value Added Tax Act, 2005 (for brevity, "the VAT Act") challenges order dated December 1, 2008 (A3) passed by the Value Added Tax Tribunal, Punjab, Chandigarh (for brevity, "the Tribunal") in Appeal No. 309 of 2006-07. The Tribunal has reached the conclusion that input tax credit in respect of the stock held by the dealer-Respondent on the appointed date was to be allowed as per the provisions of Section 14 of the VAT Act. The Tribunal also found that the tax had already been paid by the dealer-Respondent and merely because the application was not filed within the prescribed time-limit, it could not have been denied the ITC claim and penalised for delay by burdening with costs.

2. The controversy raised in the instant appeal is no longer res integra and the same has already been set at rest by a Division Bench of this Court in the case of State of Punjab v. City Petro [2009] 21 VST 353 : [2009] 33 PHT 167. The Division Bench after noticing the provisions of Rule 25 of the Punjab Value Added Tax Rules, 2005, Section 14 of the VAT Act and the judgment of the honourable Supreme Court rendered in the case of [Chairman, Indore Vikas Pradhikaran Vs. Pure Industrial Cock](#)

[and Chem. Ltd. and Others,](#), dismissed the appeal of the Revenue in [State of Punjab and Another Vs. City Petro,](#) by observing as under (at page 357 of VST):

9. It is further appropriate to mention that the period of 30 days was extended to 45 days by Act No. 11 of 2006 with effect from April 24, 2006. The Respondent had filed its input tax credit claim on June 18, 2005 which was before the date of publication of the VAT Rules. By virtue of the use of expression "appointed day" for counting the period of 30 days, used in Rule 25(1) (b), an argument was raised by the Revenue that the period of 30 days or 45 days has to be counted from the "appointed day", i.e., April 1, 2005. The Tribunal did not accept the aforementioned argument because by no stretch of imagination an impossible act could be permitted to be done. The VAT Rules were published on June 21, 2005 and the "appointed day" of April 1, 2005 would require a dealer to file his return within 45 days, which would expire on May 15, 2005. This could never be the intention of the Legislature which has provided by Sections 13 and 14 of the VAT Act that a dealer can file his statement of input tax credit claim subject to certain conditions. Moreover, it is a transitory statute repealing the earlier Sales Tax Act. The goods which have already suffered sales tax could not be subjected to another doze of tax.

10. It is, thus, evident that even if period of 45 days is given from the "appointed day", i.e., April 1, 2005, no dealer could have filed his input tax credit claim nor could the claim be filed with effect from April 24, 2006 when further period of 15 days was granted from that date. It is well-settled that the law does not contemplate doing of an impossible act. The legislative intent is clear from the reading of Sections 13 and 14 of the VAT Act, which allow a dealer to claim input tax credit subject to various other conditions. It is also clearly made out that period of 45 days is intended to be given to the dealer to make input tax credit claim. However, the period of 45 days has to be counted from the date of publication of the VAT Rules on June 21, 2005. Any other interpretation would defeat the basic object of Sections 13 and 14 of the VAT Act and the VAT Rules. If the intention of the Legislature and the rule-making authorities is gathered from the aforesaid provisions then the period of 45 days has to be reckoned from the date of publication of the VAT Rules. Therefore, it would be appropriate to apply the rule of purposive construction to a statute of this nature which would make VAT Rules workable, as has been laid down in para 82 of the judgment of the honourable Supreme Court in the case of [Chairman, Indore Vikas Pradhikaran Vs. Pure Industrial Cock and Chem. Ltd. and Others,](#) . Such an interpretation would be consistent with the intention of the Legislature and the rule-framing authorities and would advance the object of the statute.

For the reasons aforementioned, this appeal fails and the same is dismissed.

3. Similar view has been reiterated in subsequent Division Bench judgments rendered in the cases of [State of Punjab and Another Vs. Indian Colour Centre,](#) and *Lahori Mal Bimal Chand Jain v. State of Punjab* [2010] 34 VST 492 (P&H) (VATAP No. 17 of 2008, decided on September 5, 2009).

4. In view of the above, we are of the considered view that the instant appeal is squarely covered by the Division Bench judgment rendered in the case of [State of Punjab and Another Vs. City Petro,](#) . Therefore, following the same reasoning the appeal is dismissed.

5. In view of the fact that the appeal has been disposed of on merit, we do not feel the necessity of passing any order in the civil miscellaneous application filed along with the appeal and the same are disposed of as such.