
State of Haryana Vs Giriraj Metal and Ferro Alloys

G.S.T.R. No"s. 25 and 32 of 2006 (O and M)

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 5, 2010

Acts Referred:

Central Sales Tax Act, 1956 " Section 25(5), 9, 9(2B)#Finance Act, 2000 " Section 120(1)#Haryana General Sales Tax Act, 1973 " Section 42(2)

Citation: (2011) 42 VST 325

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

Bench: Division Bench

Judgement

Adarsh Kumar Goel, J.

This order will dispose of G. S. T. R. Nos. 25 and 32 of 2006 as it is pointed out by learned counsel for the State

that subject-matter of both the references is the same.

2. The Haryana Tax Tribunal has referred u/s 42(2) of the Haryana General Sales Tax Act, 1973 ("the 1973 Act") following questions of law for

opinion of this court arising out of its order dated December 27, 2005 in S. T. M. Nos. 13 and 14 of 2005-06 :

(i) Whether, in the facts and circumstances of the case, the amended provisions of section 9 of the Central Act are operative retrospectively when

read with sub-section (1) of section 120 of the Finance Act, 2000 ?

(ii) Whether the decisions of the honourable apex court in the case of Sales Tax Officer, Ward II, Moradabad v. Oriental Coal Corporation

reported as [1988] 68 STC 398 has been correctly applied by the Tribunal in the facts and circumstances of the present case ?

(iii) Whether interest can be levied on delayed payment made pertaining to any period prior to May 12, 2000, i.e., the date on which the Finance

Bill, 2000 received the assent of the President ?

(iv) Whether the amendment of section 9 of the Central Act and validation clause has rendered the order of the Assessing Authority, annexures P1

and P2, illegal and improper and liable for revision by the revisional authority ?

3. After assessment in the case of the respondent-dealer was finalized, the revisional authority in exercise of suo motu powers passed order dated

March 26, 2001 imposing interest for late payment of tax for the assessment years 1996-97 and 1997-98 u/s 25(5) read with section 9(2B) of the

Central Sales Tax Act, 1956 (the Central Act). The demand of interest was set aside by the Tribunal on March 1, 2002. It was held that since

amendment had been made to the Central Act only with effect from May 12, 2000, the interest could not be demanded for period prior thereto.

4. We have heard learned counsel for the State. None appears for the respondent-dealer.

5. The learned counsel for the State points out that the matter is covered by judgment of the honourable Supreme Court in Indodan Industries Ltd.

v. State of U. P. [2010] 27 VST 1 (SC), wherein after referring to section 120 of the Finance Act, 2000, it was held that sub-section (2B) of

section 9 of the Central Sales Tax Act, 1956 inserted on May 12, 2000 was retrospective from the date of parent Act, i.e., from January 5, 1957.

The interest was compensatory and if the amount due was paid after it became due, presumption was that the Department had lost the revenue

during the interregnum.

6. In view of the above, the questions referred are answered in favour of the State and against the respondent.

7. The references are disposed of accordingly.