

Eicher Tractors Limited and Another Vs State of Haryana and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 2, 2010

Acts Referred: Haryana General Sales Tax Act, 1973 & Section 25(5), 9

Hon'ble Judges: Ajay Kumar Mittal, J; Adarsh Kumar Goel, J

Bench: Division Bench

Judgement

Adarsh Kumar Goel, J.

This order will dispose of Civil Writ Petition Nos. 2403 of 1994 and 1767 of 1988 as common questions are

involved in both these petitions.

2. Civil Writ Petition No. 2403 of 1994 seeks quashing of order dated 30.11.1993 passed by the Assessing Authority, Faridabad creating liability

against the Petitioner under the provisions of Haryana General Sales Tax Act, 1973 (hereinafter referred to as "the Act"). The liability created also

included liability to pay interest u/s 25(5) of the Haryana Sales Tax Act.

3. In the writ petition one of the contention raised is that u/s 9 of the Act purchase tax liability has been created if raw-material is purchased in the

State and used in manufacture of goods which are sent out from the State other than by way of inter-State sale or export which was against the

judgment of Hon"ble Supreme Court in Goodyear India Limited Vs. The State of Haryana and Another, . This was in the nature of tax on

consignment of goods covered by Entry 92-B of List-I. Further, contention raised is that liability to pay interest as per the scheme of the Act arises

in respect of additional liability created under the assessment order and not on the date of transaction of purchase and sale or filing of return. The

tax paid as per return does not carry any liability to pay interest till assessment is made. Reliance has been placed on the judgment of Hon"ble

Supreme Court in J.K. Synthetics Ltd. v. Commercial Tax Officer [1994] 94 STC 422.

4. As regards challenge to the tax liability u/s 9 of the Act is concerned, it is not disputed by learned Counsel for the Petitioner that the matter is

covered against the Petitioner by the judgment of Hon"ble Supreme Court in Hotel Balaji's case reported in (1993) 88 STC 98. Only contention

which has been pressed is about levy of interest for the period prior to the assessment. On this aspect the matter is covered in favour of the

Petitioner by judgment of Hon^{ble} Supreme Court in J.K. Synthetics Ltd. v. Commercial Tax Officer [1994] 94 STC 422 and learned Counsel for

the State has not been able to distinguish the applicability of the judgment.

5. Accordingly, we allow these writ petitions to the extent of levy of interest for the period prior to passing of the order of assessment. The

Assessing Authority may issue fresh notice of demand accordingly by modifying the interest component in accordance with the principles laid down

in J.K. Synthetics Ltd.'s case (supra).