courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 08/11/2025

(2010) 11 P&H CK 0633

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 16092 of 2010

Super Floorings Private Ltd.	APPELLANT
Vs	
State of Haryana and Others	RESPONDENT

Date of Decision: Nov. 15, 2010

Acts Referred:

- Haryana General Sales Tax Rules, 1975 - Rule 28C
- Haryana Value Added Tax Rules, 2003 - Rule 69

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

Bench: Division Bench

Final Decision: Dismissed

Judgement

Adarsh Kumar Goel, J.
This petition seeks quashing of order of assessment under the provisions of the Haryana Value Added Tax Act, 2003 (in short "the Act") and the Central Sales Tax Act, 1956 and further consequential reliefs.

2. Case of the Petitioner is that it was issued entitlement certificate under Rule 28C of Haryana General Sales Tax Rules, 1975 for tax concession on sale of manufactured goods. However, for the assessment period 2006-07, impugned order has been passed declining the benefit of tax concession by taking wrong and erroneous interpretation of Section 61(2)(d)(iii) of the Act and Sub-rule (2) of Rule 69 of the Haryana Value Added Tax Rules, 2003, relying upon an earlier order of the Tribunal dated 7.10.2009 in STA Nos. 101-102/ 2008-2009 (M/s Sonex Auto Industries Private Ltd. and Ors. v. State of Haryana).

3. We have heard learned Counsel for the Petitioner.

4. It is not disputed that the Petitioner has remedy of appeal u/s 64 of the Act. Contention raised on behalf of the Petitioner is that even when remedy of appeal is provided, this petition may be entertained in view of the fact that the Tribunal has already taken a particular view. Reliance has been placed on the judgment of the Hon''ble Supreme Court in Filterco and Anr. v. Commissioner of Sales Tax, Madhya Pradesh and Anr. (1986) 61 STC 318 in support of the contention that a writ petition may lie irrespective of alternative remedy if the appellate authority has already expressed its view on a particular issue.

5. We are unable to accept the submission. Even though writ petition may be entertained on an issue concluded by an order of higher authority in an appropriate case, it cannot be held that wherever a view has been expressed by the higher authority, every order of assessment could be challenged by way of a writ and statutory remedy of appeal was not required to be adopted.

6. The view of the Tribunal has not been challenged though the Petitioner could have done so. Application of law or interpretation depends also on a fact situation adjudication of which has to be at an appropriate forum. The judgment relied upon is distinguishable. Therein challenge was to an advance ruling by way of writ petition and not to an order of assessment.

7. Accordingly, the petition is dismissed relegating the Petitioner to statutory alternative remedies in accordance with law.