

**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH****VATAP-127-2012****Date of Decision: 13.10.2025****STATE OF HARYANA**

...Petitioner

Versus

**M/S SHEETAL PRASHAD AND SONS AND ANOTHER**

...Respondents

**CORAM: HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MR. JUSTICE PARMOD GOYAL**

Present:- Ms. Mamta Singla Talwar, DAG, Haryana.

None for respondents.

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**LISA GILL, J. (Oral)**

1. Prayer in this appeal is for setting aside order dated 06.11.2006 (Annexure A-8), passed by respondent no.2 in STA No. 911 of 2003-2004.
2. Excise and Taxation Officer, Jind vide order dated 24.04.2003 (Annexure A-5) had imposed a penalty of ₹59,000/- upon respondent no.1, under Section 37(6) of Haryana General Sales Tax Act, 1973 (for short 'HGST Act, 1973'). Excise and Taxation Officer, Jind, in his order dated 24.04.2003 noted that during course of roadside checking on 25.03.2003 an Indica Car bearing registration no.HR-37A-8266 was checked by him alongwith supporting staff when salesman of respondent no.1 – firm was found supplying wrist watches to one M/s. Rama Watch Company, near Bharat Cinema, Jind. All the wrist watches were of the mark TITAN. However, bills produced were found to be of an earlier date and not covered by any ST-38 form, which was mandatory. Total value of invoices came to ₹97,135/-, which it was further found, were not covered by any proper documents as required under HGST Act, 1973. It was also noted that proprietor of the firm appeared on 24.04.2003 and admitted that proper and genuine documents of wrist watches were not present and neither

ST-38 form available with the goods. In this scenario Excise and Taxation Officer, Jind, considering value of the goods to be ₹1,98,035/- imposed penalty of ₹59,000/- under Section 37(6) of HGST Act, 1973, as above.

3. This order was upheld by appellate authority vide order dated 16.07.2003 (Annexure A-7), whereby appeal filed by respondent no.1 was dismissed. However, learned Haryana Tax Tribunal, vide impugned order dated 06.11.2006 (Annexure A-8) set aside impugned orders and remanded the matter to Deputy Excise and Taxation Commissioner, Ambala, to depute an officer to make a thorough investigation, conduct an enquiry and thereafter, decide the matter in accordance with law. Learned Tribunal observed that there is no denial of the fact that goods were not covered with the declaration and form ST-38 and eight of the watches were not covered/accompanied with the necessary documents. The watches in question, it was held, were of a reputed brand in the market. Levy of penalty should have been imposed only upon a satisfaction arrived at regarding intention on the part of respondent to evade tax. It was thus directed that detailed enquiry in the matter should be carried out and Deputy Excise and Taxation Commissioner, Ambala, being Incharge of the district should depute an officer to cross-verify details of watches as mentioned in the bills and as to whether watches bearing the same number were sold to them by M/s. Titan Industries Ltd. If the authorities could cross-verify, it would prove that there was no intention to evade payment of tax, otherwise it would be a big scandal, which would be unearthed resulting in purchase and sale of such a reputed brand of watches in the gray market. Matter was accordingly remanded to Deputy Excise and Taxation Commissioner, Ambala, to depute an officer to thoroughly investigate the matter after providing adequate opportunity of hearing.

3. Learned counsel for the appellant, on instructions from Ms. Sneh Lata, ETO, Ambala, informs that no such enquiry has since been conducted.

4. This appeal was admitted on 12.02.2013 to consider the following question of law:-

“Whether the Tribunal could order inquiry by the State into the transactions of sale of goods at the first stage, though in terms of proviso to Section 18 of the Haryana General Sales Tax Act, 1973, the onus to prove the genuineness of the transaction is on the borrower?”

5. Perusal of file reveals that amount involved in the matter is only ₹59,000/-. In view thereof, we do not deem it appropriate to proceed any further to consider and decide this appeal on merits. This is also in keeping with litigation policy of the State. Question of law is left open to be decided in appropriate proceedings.

6. Appeal is accordingly disposed of.

**(LISA GILL)**  
**JUDGE**

**13.10.2025**  
sunil

**(PARMOD GOYAL)**  
**JUDGE**

*Whether speaking/reasoned:* Yes  
*Whether Reportable:* Yes/No