

VATAP-27-2018 (O&M)

2025:PHHC:042205-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP-27-2018 (O&M)  
Date of decision: 20.03.2025

M/S. PRITAM STEEL WORKS ..... Appellant(s)  
Versus  
STATE OF PUNJAB AND OTHERS ..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Harsh Manocha, Advocate for appellant.

Mr. R.S. Pandher, Senior DAG, Punjab.

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**LISA GILL, J.**

1. This appeal has been filed for setting aside order dated 27.08.2010, passed by learned Value Added Tax Tribunal, Punjab (hereinafter referred as Tribunal), whereby appeal No.223 of 2010, filed by present appellant was dismissed besides setting aside order dated 25.01.2007, passed by Assistant Excise and Taxation Commissioner, Mobile Wing, Ludhiana (hereinafter referred as ETO (MW), Ludhiana).

2. Brief facts necessary for adjudication of this appeal are that goods vehicle carrying M.S. Bars, as described in impugned order, was intercepted by ETO (MW), Ludhiana, on 09.01.2007, near G.T. Road, Khanna. Driver - incharge of this vehicle not having necessary documents with him, stated that goods had been loaded at premises of M/s. Pritam Steel Works, Malerkotla Road, Khanna. Accordingly, suspecting evasion of tax, goods were detained by Checking Officer under Section 51(6)(a) of the Punjab Value Added Tax Act, 2005 (hereinafter referred as the Act) for verification of transaction. Detaining Officer visited

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premises of said firm for verification. Harmeet Singh son of proprietor, present on the premises stated that goods had been loaded from their premises and were sold to a firm of Mandi Gobindgarh, but no bill had been issued. Notice was issued to consignor/consignee firm for 10.01.2007 to come present with relevant record. Value of the detained goods was assessed to be ₹4,95,190/-. Subsequently, proprietor of the firm appeared before Detaining Officer on 12.01.2007 and produced bill dated 09.01.2007 of the value of ₹5,13,324/-, in favour of one M/s. Jagtar Steel Corporation, Mandi Gobindgarh. It was admitted that bill had not been given to driver of vehicle. Matter was referred to Designated Officer by Detaining Officer, for action under Section 51(7)(b) of the Act. In the inquiry, no satisfactory explanation was forthcoming as to why driver of vehicle did not have the invoice and how goods had been sent without issuance of any bill. AETC (MW), Ludhiana, concluded that goods were meant for trade and there was an attempt to evade tax. Penalty of ₹1,53,997/- was imposed under Section 51(7)(b) of the Act by AETC (MW), Ludhiana vide impugned order dated 25.01.2007.

3. Appeal filed by appellant - assessee was dismissed by Deputy Excise and Taxation Commissioner-cum-Joint Director (Investigation), Jalandhar Division, Jalandhar, vide order dated 05.11.2009 whereupon appeal was preferred before learned Tribunal. Said appeal was also dismissed by learned Tribunal vide impugned order 27.08.2010, while observing as under:-

“In this case, when the vehicle was intercepted the driver incharge of the vehicle had no documents with him. He had just disclosed that the goods had been loaded from the premises of M/s Pritam Steel Works, Malerkotla Road, Khanna. The ETO had immediately gone to the premises of M/s Pritam Steel Works, Malerkotla Road, Khanna where Harmit Singh s/o Mehar Singh Prop. Of the firm was

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available. No invoice or its copy was produced at that time and it was even stated by Harmit Singh that no invoice was issued and goods had been sent without invoice. The contention of the appellant, that the driver had got the invoice or had made any effort to produce the same immediately after the interception cannot be accepted. When the driver incharge of the vehicle did not have documents and even no documents were produced when ETO visited the premises of the appellant immediately after interception, then the only conclusion will be that there was violation of section 51 (2) of the Punjab VAT Act, with a view to attempt to evade tax.”

4. Aggrieved therefrom, this appeal has been filed with delay of 2824 days.

5. Learned counsel for appellant vehemently argues that there were in fact two drivers attached with the vehicle in question. Goods were being sent to the purchaser at Mandi Gobindgarh through the truck, details of which are given in the impugned order with sale invoice being handed over to one of the drivers of vehicle at about 12:30. Vehicle was taken out of business premises by the driver and parked near the G.T. Road as the other driver who had the bill with him had gone to the local market for some personal work. It is here that vehicle was checked by ETO, Mobile Wing, Ludhiana, on 09.01.2007. It is submitted that Detaining Officer was apprised of the fact that bill was with the companion driver. After getting the goods loaded and handing over the bill, authorized signatory of the firm went to have lunch and it was only his son who was present at the premises of the firm at 1:00 P.M. Statement of Harmeet Singh son of authorized signatory is being misconstrued and moreover, he was not aware about business of the firm, being merely a student and having no concern with the business or account books. Detaining Officer, it is stated, recorded his statement

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incorrectly. Transaction in question, it is stated, has been duly accounted for in the regular account books, therefore, impugned orders should be set aside.

6. In respect to the delay of 2824 days which has occurred in filing the appeal, it is submitted that appellant had contacted Mr. Kishan Singh Baghi, Advocate, for filing of appeal in September, 2010 itself. Necessary documents were handed over to him and the Advocate assured the appellant that appeal would be filed within two or three weeks. It is in the month of February, 2011, concerned Inspector asked appellant to deposit penalty as imposed and in case of any appeal, asked for proof of filing of appeal. It is further submitted that appellant contacted his Advocate for proof of filing of appeal, upon which a copy of appeal alongwith annexures was handed over to appellant and he was told that this is sufficient proof for the Department. Same was handed over to concerned Inspector. None from the Department ever came to appellant or took any steps for deposit of penalty, due to which appellant remained under the impression that his appeal was admitted. It is on 08.08.2017 when a Sales Tax Officer visited premises of appellant and asked for details of any stay order/current status and complete details of appeal that appellant came to know on inquiry that appeal had not been filed. Mr. Kishan Singh Baghi, his Advocate had unfortunately passed away in the interregnum. It is thereafter that present appeal with delay of 2824 days has been filed. It is submitted that delay has occurred due to circumstances beyond control of appellant, who had diligently given required papers to his counsel. He should not be penalized for no fault of his own. It is thus, prayed that this appeal be allowed after condoning the delay in filing the same.

7. We have heard learned counsel for appellant and have gone through the file with his able assistance.

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8. At the outset, it is to be noted that story of two drivers being present with the vehicle in question, has been propounded for the first time before this Court. Perusal of impugned order dated 25.01.2007, passed by AETC (MW), Ludhiana as well as impugned order dated 27.08.2010, passed by learned Tribunal, reveal that stand taken is that statement of the son of authorized signatory of the firm has been twisted. Plea that accompanying invoice was present with the goods is not substantiated from the record. There is no reason why driver did not produce the same before Detaining Officer, if available. It is conclusively borne out that both the driver and son of the proprietor of consigner firm specifically admitted before the Detaining Officer that no document had been issued for detained goods. It is specifically mentioned in order dated 25.01.2007 that in case, transaction had been checked, there was a possibility that this transaction would also have been kept out of account books, as the consigner firm had issued merely 12 bills in the period of 10 months and detained transaction was the first with the consignee. There are specific findings of fact in the impugned orders, which the appellant is unable to dislodge on the basis of material on record. Moreover, explanation set forth for the colossal delay of 2824 days in filing of appeal is extremely shaky and highly improbable. Entire blame is sought to be shifted on to the counsel who had since passed away. There is clear-cut negligence on the part of appellant itself in not even trying to find out status of his appeal, instructions of which were purportedly given to Mr. Kishan Singh Baghi, Advocate. There is nothing on record to indicate that appellant had ever made any effort to find out status of the proceedings. It is only as and when the Department woke-up for deposit of penalty that appellant swung into action.

9. In the given facts and circumstances, we find no ground whatsoever to cause interference in this matter.

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10. No other argument has been addressed.
11. Keeping in view the facts and circumstances as above, this appeal being devoid of any merit as well as being time barred is dismissed.

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

**(ALOK JAIN)**  
**JUDGE**

**20.03.2025**

*Sunil*

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No