2026:PHHC:032482-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1). VATAP-83-2018 (O&M)

M/S JYOTI STRIPS PVT. LTD., FARIDABAD

..... APPELLANT

VERSUS

THE STATE OF HARYANA AND OTHERS

..... RESPONDENTS

2). VATAP-95-2019 (O&M)

M/S JYOTI STRIPS PVT. LTD., FARIDABAD

..... APPELLANT

VERSUS

THE STATE OF HARYANA AND OTHERS

..... RESPONDENTS

3). VATAP-96-2019 (O&M)

M/S JYOTI STRIPS PVT. LTD., FARIDABAD

..... APPELLANT

VERSUS

THE STATE OF HARYANA AND OTHERS

..... RESPONDENTS

4). VATAP-107-2019 (O&M)

M/S JYOTI STRIPS PVT. LTD., FARIDABAD

..... APPELLANT

VERSUS

THE STATE OF HARYANA AND OTHERS

..... RESPONDENTS

5). VATAP-127-2019 (O&M)

M/S JYOTI STRIPS PVT. LTD., FARIDABAD

..... APPELLANT

VERSUS

THE STATE OF HARYANA AND OTHERS

..... RESPONDENTS

Reserved on : 09.12.2025
Pronounced on : 27.02.2026
Whether full judgment is pronounced
or
operative part thereof : FULL

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

Present: Mr. Rajiv Agnihotri, Advocate
for the appellant.
Mr. Sourabh Goel, Addl. A.G. Haryana.

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PARMOD GOYAL, J.

1. All the above said five appeals were taken up together for consideration and adjudication at request and with consent of learned counsel for parties.

2. The appellant, who is a registered assessee / dealer with the Department of Sales Tax under the Haryana Value Added Tax Act, 2003 (for short '2003 Act') and the Central Sales Tax Act, 1956 (for short '1956 Act'), has preferred the present appeals being aggrieved by the scrutiny-assessment/assessment orders, the dismissal of appeals by the First Appellate Authority and the dismissal of further appeals by the Haryana Tax Tribunal, Chandigarh (for short 'Tribunal'), passed for different assessment years, as detailed hereunder:-

Appeal No.	Assessment year	Assessment Order	First Appellate Order	Order passed by Tribunal
(VATAP-83 of 2018	2012-13	31.03.2016	23.11.2016	06.03.2018
(VATAP-95-2019	2013-14	30.03.2017	22.03.2018	08.01.2019

(VATAP-96- 2019)	2013-14	31.03.2017	27.03.2018	08.01.2019
(VATAP-107-2019	2013-14	31.03.2017	27.03.2018	08.01.2019
VATAP-127-2019	2013-14	30.03.2017	22.03.2018	08.01.2019

3. Appellant is aggrieved of the alleged erroneous interpretation of Sections 7 and 7-A of 2003 Act by the Assessing Authority as well as the Appellate Authorities. Case of appellant is that the authorities have wrongly construed Sections 7 and 7-A of 2003 Act and have incorrectly determined the taxable turnover by applying different yardsticks under the said provisions, beyond the parameters contemplated under the said Act. Provision for levy of additional tax/surcharge u/s 7A of 2003, Act, cannot be applied in a manner contrary to the prescribed statutory scheme by ignoring provision under which VAT is leviable u/s 7 of 2003, Act.

4. Facts are not in dispute. Appellant is a registered dealer engaged in trading of iron and steel goods. Iron and steel goods being "declared goods" are taxable @ 5% on the taxable turnover under the 1956 Act. The appellant effected sales to registered dealers within the State of Haryana at a concessional rate of tax of 4%, subject to production of the prescribed declaration in Form D-1, issued by the purchasing manufacturing dealer certifying that the goods were to be used in manufacture of goods for sale. Appellant had duly charged tax @ 4% on such sales; produced the declaration in Form D-1; issued certificates in Form C-4 and claimed the benefit of input tax credit @ 4% against such C-4 certification.

5. However, the Assessing Authority has levied surcharge @ 5% on tax payable making total tax payable to be 4.2 % (4 % of taxable turnover u/s 7 of 2003 Act + 0.2 % as additional tax / surcharge u/s 7-A of 2003 Act i.e. 5% of 4% tax paid u/s 7 of 2003 Act) despite production of the prescribed declaration forms. This additional levy of 0.2 % additional tax / surcharge u/s 7A of 2003 Act is under challenge.

6. By placing reliance upon the definition of "last turnover" under Section 2(u), "sale" under Section 2(ze), "sale price" under Section 2(zg), "taxable turnover" under Section 2(zn), the incidence of tax under Section 3, as well as Sections 7 and 7-A of 2003 Act, it was contended by learned counsel for appellants that no additional tax/surcharge was leviable in the manner calculated and imposed by the authorities below. It is the specific case of appellant that the scheme of the Act does not contemplate levy of additional tax over and above the concessional rate once the taxable turnover is determined in accordance with Section 7 of 2003 Act on the basis of prescribed declaration forms. The interpretation adopted by the Assessing Authority and upheld by Appellate Authorities travels beyond the statutory framework and results in an impermissible dual levy.

7. Ld. Counsel for State, however, asserted that additional tax / surcharge is not on taxable turnover but tax is levied on tax payable u/s 7 of 2003 Act and since section 7A starts with *non-obstante* clause, nothing in 2003 Act comes in the way of levy of additional tax / surcharge.

8. VATAP No.83./2018 was admitted on 04.10.2018 for consideration of following questions of law:-

> i) Whether in the facts and circumstances of the case, there is no difference between tax leviable and tax payable as tax and additional tax is leviable on the seller on the sale of goods?

ii) Whether in the facts and circumstances of the case, tax leviable on the taxable turnover is not tax and additional tax?

iii) Whether in the facts and circumstances of the case, tax payable on sale to registered dealer against declaration in Form D1 for use the goods in the manufacture of goods for sale is leviable at the rate prescribed under Section 7(2)(b) @4% on production of declaration form?

iv) Whether in the facts and circumstances of the case tax is not leviable on the taxable turnover, i.e. a tax under section 7 plus additional tax leviable under Section 7A?

9. The other appeals were admitted subsequently on different dates. It was submitted that identical questions of law as in VATAP-83-2018, are involved in all these appeals.

10. In order to properly appreciate the controversy involved in the present case, it would be necessary to refer to sections 7 and 7-A (added by way of amendment in year 2010) of 2003 Act, which are reproduced hereunder:

Section 7

7. (1) The tax payable by a dealer on his taxable turnover in so far as such turnover or any part thereof relates to. -

(a) the sales of goods not falling within sub-section (2),-

(i) in the case of goods specified in Schedule A, shall be calculated at the rates specified therein;

(ii) in the case of declared goods except those specified in Schedule B, shall be calculated at four per cent or such other rate not exceeding the ceiling specified in clause (a) of section 15 of the Central Act as the State Government may, by notification in the Official Gazette, direct;

(iii) in the case of goods specified in Schedule C, shall be calculated at four per cent or such other rate not exceeding ten per cent as the State Government may, by notification in the Official Gazette, direct;

(iv) in the case of other goods, shall be calculated at ten per cent or such other rate not exceeding fifteen per cent, as

the State Government may, by notification in the Official Gazette, direct;

Provided that where any goods are sold in containers or packed in any packing materials, the rate of tax applicable to such containers or packing materials shall, whether the price of the containers or packing materials is charged separately or not, be the same as those applicable to the goods contained or packed therein; and where such goods are exempt from tax, the sale of the containers or packing materials shall also be exempt from tax;

(b) the purchase of goods, shall be calculated at four per cent or such lower rate applicable on sale of such goods had it been a sale falling under clause (a):

Provided that the State Government may, by notification in the Official Gazette, direct that the tax shall be calculated at a lower rate.

(2) The tax payable by a dealer on his taxable turnover in so far as such turnover or any part thereof relates to goods sold to the Government or to goods of the description referred to in sub-section (4) sold to a VAT dealer or such other registered dealer as may be prescribed (hereinafter both referred to in this section as 'authorised dealer'), shall be calculated-

(a) if the goods are of the description contained in Scheduled D, at the rate mentioned against such goods, otherwise;

(b) at four per cent or such lower rate applicable on sale of such goods had it been a sale falling under clause (a) of sub-section (1);

Provided that the State Government may, by notification in the Official Gazette, direct that tax under clause (b) shall be calculated at a lower rate:

Provided further that the State Government, if satisfied that it is necessary or expedient so to do in the interest of promotion of exports out of the country may, by notification in the Official Gazette, direct that tax under clause (b) on the taxable turnover which relates to the sale of goods of such class or classes to such class or classes of authorised dealers for such use by them, as may be specified in the notification, shall be calculated at zero rate.

(3) The provisions of sub-section (2) so far as the rate of tax applicable thereunder on a sale of goods in the State is lower than the rate of tax applicable under clause (a) of sub-section (1)

if such sale had been a sale falling within that clause, shall not apply unless the dealer selling the goods furnishes to the assessing authority in the prescribed circumstances and in the prescribed manner-

(a) if the goods are sold to an authorised dealer, a declaration duly filled in and signed by him containing the prescribed particulars in the prescribed form obtained from the prescribed authority and in case such form is not available with such authority, a self printed and serially numbered form authenticated by such authority in the prescribed manner; or

(b) if the goods are sold to the Government, not being a registered dealer, a certificate in the prescribed form duly filled in and signed by a duly authorised officer of the Government.

(4) The goods sole to an authorised dealer referred to in sub-section (2)-

(a) are goods of the class or classes specified in the certificate of registration of the authorised dealer purchasing the goods as being intended, subject to any rules made by the State Government in this behalf, for use by him –

i in the manufacture of goods for sale;

ii in the telecommunications network;

iii in mining or;

iv in the generation or distribution of electricity or any other form of power;

(b) are goods of the class or classes specified in the certificate of registration of the authorised dealer who is covered under the notification issued under the second proviso to clause(b) of sub-section(2), purchasing the goods as being intended for use by him for the purposes specified in the said notification;

(c) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in clause(a) or clause(b).

(5) If an authorised dealer after purchasing any goods for any of the purposes specified in clause(a), clause(b) or clause(c) of sub-section(4) fails, without reasonable excuse, to make use of the goods for any such purpose, the assessing authority may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one-and-a-half times the tax which would have been levied additionally under clause(a) of sub-section(1), if the sale made to him had been a sale falling within that clause:

Provided that no penalty shall be imposed where an authorised dealer voluntarily pays the tax which would have been levied

additionally, as referred to in the foregoing provision, with the return for the period when he failed to make use of goods purchased for the specified purposes.

Section 7-A

> **"7 A. Levy of Additional Tax**.-(1) Notwithstanding anything contained in this Act, there shall be levied and collected on the taxable turnover of a dealer registered under this Act other then retailer in lump-sum composition with the department, an additional tax, in the nature of surcharge, which shall be calculated at the rate of five per cent of the tax, payable by him:
>
> Provided that the aggregate of tax and the surcharge payable under this Act, shall not exceed in respect of the goods, declared to be of special importance in inter-state trade or commerce under Section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), the rate fixed under Section 15 of that Act.
>
> (2) Except as otherwise provided in Sub-section (1), the provisions of this Act shall, so far as may be, apply in relation to the additional tax leviable under Sub-section (1), as they apply in relation to the tax leviable under any other provision of this Act.".

11. On a consideration of Sections 7 and 7-A of 2003 Act, reproduced herein above, we find that Sections 7 and 7-A operate in distinct and independent fields and are not inclusive of each other, rather are mutually exclusive in their application. Section 7 (2) of 2003 Act prescribes the rate and levy of tax in respect of sales of declared goods against VAT Form D-1 and limits the rate of tax to 4%. On the other hand, Section 7-A does not deal with the levy of tax as such, but provides for levy of additional tax/surcharge. Section 7-A of 2003 Act opens with a *non-obstante* clause, namely, “notwithstanding anything contained in this Act”, which clearly excludes the application of the restrictions and conditions contained under Section 7 of 2003 Act. The additional tax/surcharge under Section 7-A is thus leviable over and above the tax specified under Section 7, which, in the case of sales of declared goods against VAT Form D-1, could be 4% under section 7. Levy of additional

tax/surcharge under Section 7-A, in addition to the tax payable under Section 7, is not the tax payable on taxable turnover.

12. Argument raised by learned counsel for appellant is that where sales are effected against VAT Form D-1, Section 7-A would not come into operation and the tax payable would be confined to 4%, and not 4.2% as calculated by the authorities. To substantiate this contention, learned counsel has argued that the legislative intent, as discernible from Sections 7 and 7-A of 2003 Act, is to levy tax on taxable turnover, which is the same as gross turnover, and therefore, the same cannot be in addition to tax paid u/s 7.

13. The argument, though attractive at first blush, is devoid of merit. A bare reading of Sections 7 and 7-A of 2003 Act shows that both provisions are differently worded and operate in distinct spheres. Section 7-A provides for levy of additional tax in the nature of surcharge and is not a levy on gross turnover or taxable turnover, as sought to be contended by learned counsel for the appellant.

14. The additional tax/surcharge under Section 7-A is required to be calculated @ 5% of the tax payable by the assessee and not on gross / taxable turnover. The operation of Section 7-A, which opens with a *non-obstante* clause, is thus independent of the provisions of Section 7 of 2003 Act. The levy under Section 7-A is an additional tax / surcharge, payable @ 5% over and above the tax levied under Section 7 on the taxable turnover.

15. In **Govind Saran Ganga Saran Vs. Commissioner of Sales Tax and Others**, 1985 (60) STC 1 (SC) Hon'ble the Supreme Court had held that :

> "6. The components which enter into the concept of a tax are well known. The first is the character of the imposition known by its nature which prescribes the taxable event attracting the levy, the second is a clear indication of the person on whom the levy is imposed and who is obliged to pay the tax, the third is the rate at which the tax is imposed, and the fourth is the measure or value to which the rate will be applied for computing the tax liability. If those components are not clearly and definitely ascertainable, it is difficult to say that the levy exists in point of law. Any uncertainty or vagueness in the legislative scheme defining any of those components of the levy will be fatal to its validity.

16. On testing levy u/s 7A all the four necessary components as stated above are clearly made out. Tax u/s 7A is additional tax / surchage payable by registered dealer calculated @ 5% of tax payable by such dealer.

17. It is worth noting that legislature has ensured due compliance of provisions of Central Sales Tax, 1956 Act by adding proviso to Section 7A whereby total tax leviable u/s 7 and 7A was made in conformity with provisions of 14 & 15 of 1956 Act which imposes limit on declared goods, which are subject matter of present appeals maximum to the extent of 5%. Therefore, legislature was within in its competence to impose additional tax / surcharge to the extent of tax leviable under 1956 Act on declared goods. Tax u/s 5 of 1956 Act is 5% whereas tax levied u/s 7 and 7A of 2003 Act comes to 4.2% which is confirmatory with proviso. Relience on judgment **Mahashiv Promoters Pvt. Ltd. Vs. State of Haryana and another,** VATAP No. 59 of 2014, decided on 08.09.2016 by Division Bench of this Court by appellant, is of no help to the case of appellant. In **Mahashiv Promoters Pvt. Ltd. (supra),** issue was levy of additional tax on dealers who were work contractors and had opted for payment of lumpsum composition / tax. It was held that since no taxable turnover is to

be determined, additional tax under section 7A of the 2003 Act is not leviable. Present is a case where taxable trunover in case of registered dealer selling declared goods was duly arrived at and taxed u/s 7 of 2003 Act.

18. Accordingly, the levy of additional tax/surcharge under Section 7-A of 2003 Act, in addition to the tax payable under Section 7, does not suffer from any illegality or infirmity.

19. Questions of law as raised are thus decided against the appellant and in favour of respondents/Department.

20. No other argument was addressed.

21. Impugned orders dated 31.03.2016, 23.11.2016 and 06.03.2018 (in VATAP-83-2018); orders dated 30.03.2017, 22.03.2018 and 08.01.2019 (in VATAP-95-2019); orders dated 31.07.2017, 27.03.2018 and 08.01.2019 (in VATAP-96-2019); orders dated 30.03.2017, 22.03.2018 and 08.01.2019 (in VATAP-127-2019) and orders dated 31.03.2017, 27.03.2018 and 08.01.2019 (in VATAP-107-2019) are upheld.

22. All the Appeals are without any merit, hence are dismissed.

23. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

(LISA GILL)
JUDGE

(PARMOD GOYAL)
JUDGE

27.02.2026
manoj

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No
Uploaded on : 27.02.2026