



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Revision No. 82 of 2026
Date of Decision: 12.10.2026

M/s Super Power Steels

.....Petitioner

Versus

**The Himachal Pradesh Tax Tribunal
& anr.**

.....Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge
Hon'ble Mr. Justice Romesh Verma, Judge

Whether approved for reporting? Yes

For the petitioner: Mr. Ajay Vaidya, Advocate.

For the respondents: Mr. Pushpinder Jaswal, Additional Advocate
General, Advocate .

Ajay Mohan Goel, J.(Oral)

By way of this revision petition, the petitioner has, inter alia
prayed for the following reliefs:

- “(i). The present revision petition may be allowed and impugned orders as contained in Ann P-1,P-4 and P-6 may kindly be quashed and set aside being time barred, arbitrary and unreasonable.
- (ii). To hold that the petitioner is entitled to the Deferment of Tax Scheme as notified vide annexure P-9

(iii). An interim order of Injunction restraining the respondents and their agents and servants for giving effect to the said Ann P-1 or to enforce/ recover the said demand in any manner whatsoever pending disposal of the present petition.”

2. We have heard the learned counsel for the petitioner as also learned Additional Advocate General and have gone through the orders, which stand assailed by way of this revision petition. Record demonstrates that appeal, preferred by the present petitioner under Section 45(2) of the H.P VAT Act, was dismissed by the Appellate Authority on 01.05.2024 (Annexure P-4).

3. Against the order of the Appellate Authority, the petitioner preferred a Civil Revision before this Court under Section 48 of the HP VAT Act, 2005 i.e. Civil Revision No. 165 of 2024. This Civil Revision along with certain other civil revisions, was disposed of by the Division Bench of this Court vide order dated 24.03.2025 (Annexure P-5), which order read as under:-

“After arguing for some time, learned counsel for the petitioner(s) seeks permission to withdraw the instant petitions with liberty to file appropriate application(s)/review before the Tribunal. Prayer being innocuous is allowed.

2. Accordingly, the instant petitions are dismissed as withdrawn with liberty, as aforesaid. Pending miscellaneous application(s), if any, shall also stand disposed of.”

4. Thereafter, the petitioner filed a rectification application under Section 47(1) of the H.P VAT Act, which has been rejected by the authority vide order dated 19.12.2025 (Annexure P-6) and feeling aggrieved, the petitioner has approached this Court again.

5. Having heard learned counsel for the petitioner as also learned Additional Advocate General and having gone through the documents appended with this petition, including the order passed by the authority on the rectification application filed by the petitioner, we are of the considered view that the present civil revision is not maintainable. The power of revision of the High Court is provided under Section 48 of the HP VAT Act, 2005, which reads as under:-----

“ 48. (1)Any person aggrieved by an order made by the tribunal under sub-section (2) of section 45 or under sub-section (3) of section 46, may, within 90 days of the communication of such order, apply to the High Court of Himachal Pradesh for revision of such order if it involves any question of law arising out of erroneous decision of law or failure to decide a question of law.

(2) The application for revision under sub-section (1) shall precisely state the question of law involved in the order, and it shall be competent for the High Court to formulate the question of law.

(3) Where an application under this section is pending, the High Court may, or on application, in this behalf, stay recovery of any disputed amount of tax, penalty or interest payable or refund of any amount due under the order sought to be revised: Provided that no order for stay of recovery of such disputed amount shall remain in force for more than 30 days unless the applicant furnishes adequate security to the satisfaction of the Assessing Authority concerned.

(4) The application for revision under sub-section (1) or the application for stay under sub-section (3) shall be heard and decided by a bench consisting of not less than two judges.

(5) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.”

6.

A perusal of this Section provides that any person aggrieved by an order made by the tribunal under sub-section (2) of section 45 or under sub-section (3) of section 46, may, within the time period prescribed under this Section, apply to the High Court for revision of such order, if it involves any question of law arising out of an erroneous decision of law or failure to decide a question of law.

7. In the present case, the appellate order dated 01.05.2024 (Annexure P-4), passed by the Authority under Section 45(2) of the HP VAT Act, was assailed by the petitioner before this Court by way of Civil Revision No.165 of 2024. As mentioned herein above also, said revision petition was not decided on merit and the same was withdrawn by the petitioner along with certain other petitions listed before the Court, with liberty to file appropriate application/review before the Tribunal.

8. It is common practice that many a times, when the contentions of a party are not finding favour with the Court, then, rather than seeking an order of dismissal, a party prays for and is allowed to withdraw the petition. However, in such a circumstance, as has been held by the Hon'ble Supreme Court of India in case titled **Sarguja Transport Service, v. State Transport Appellate Tribunal Gwalior and others, AIR 1987 Supreme Court 88**, liberty is to be prayed for by the party and if the same is not granted by the Court, the party cannot approach the Court again on the same issue. Here, it is evident from the order passed by the Hon'ble Coordinate Bench that, after making submissions for some time, learned counsel appearing for the petitioner sought permission to withdraw the petition with liberty to file an appropriate application/review before the Tribunal and the prayer was allowed being an innocuous one. No liberty was prayed by the

petitioner to approach this Court again against the appellate order nor any such liberty was granted by the Court.

9. In this backdrop, now, when we consider Section 47 of the HP VAT Act, it reads that the Tribunal or the Commissioner, or officer on whom the powers of the Commissioner for the purposes of sub-section (1) of Section 46 have been conferred by the State Government may, at any time within one year from the date of any order passed by him on an application made to him or on his own motion, rectify any mistake apparent from the record and shall, within the prescribed period, rectify any such mistake which has been brought to his notice by any person affected by such order.

10. In terms of the order dated 19.12.2025, which has been passed on the rectification application filed by the petitioner, learned Tribunal has held as under while disposing of said application:-

“9. It is thus evident that there is no mistake apparent in this Tribunal's order dated 01.05.2024 nor is there any documentary evidence or point of submission missed by inadvertence/oversight by this Tribunal in the appeal records; there is no ground whatsoever to rectify the mistake as per Sub-Section(1) of Section 47 of the HP VAT Act. Further, the impugned order dated 01.05.2024 cannot be held to be a non-speaking order as it is a very detailed order which has examined various

laws/judgment while passing its orders. The rectification of an order does not mean obliteration of the order originally passed and its substitution by a new order. For the aforesaid reasons, the appeal does not merit any consideration and is dismissed. The impugned order of the Tribunal dated 01.05.2024 is upheld, with liberty to the petitioner to resort to appropriate proceedings in accordance with law.”

11. A perusal of said para demonstrates that what learned Tax Tribunal has observed in terms of this order that there was no mistake apparent to its order, nor there is any documentary evidence or point of submission missed by inadvertence or oversight by the Tribunal in the appeal's record and thus, no ground was made to rectify the order earlier passed by the learned Appellate Tribunal.

12. In terms of Section 48 of the HP VAT Act, what can be challenged by way of revision is either an order passed under Section 45(2) or an order under Section 46 of the H.P VAT Act. The present petition, which is now aimed against the order passed by the learned Tribunal in an application filed under Section 47(1) of the HP VAT Act, is therefore not maintainable. No revision is maintainable under Section 48 of the Act against such an order passed in an application under Section 47(1) of the Act.

13. Therefore, this petition is dismissed on this count, but with liberty to the petitioner to seek any remedy that may be available to it against the order passed under Section 47(1) by the Authority. Pending application(s), if any, shall also stand disposed of.

(Ajay Mohan Goel)
Judge

(Romesh Verma)
Judge

October 12, 2026
(meera)