

**BEFORE THE HIMACHAL PRADESH TAX TRIBUNAL, DHARAMSHALA,
CAMP AT SHIMLA**

Appeal No. : 15 & 16/2021
Date of Institution : 22-06-2021
Date of order : 03-06-2022

In the matter of:

M/s Himachal Filling Station,
Jassur, Tehsil Nurpur, Distt Kangra.

.....Appellant

Vs

- i) The Jt. Commissioner of State Taxes and Excise-Cum Appellate Authority, NZ, Palampur, HP, Shimla.
- ii) The Assessing Authority Nurpur, HP.

.....Respondents

Parties represented by:-

Shri Rakesh Sharma, Advocate Along with Miss Sakshi Gautam Advocate
for the Appellant

Shri Rakesh Rana, Dy. Director (Legal) for the Respondent

Appeal under Section 45(2) of the HP VAT Act, 2005


Order

1. The present appeals have been filed by M/s Himachal Filling Station, Jassur, Tehsil Nurpur, Himachal Pradesh against the orders of Ld. Jt. Commissioner of State Taxes and Excise-Cum Appellate Authority, NZ, Palampur Himachal Pradesh, Shimla dated 25-03-2021 vide which the appeal filed by the applicant against the order dated 11-02-2019 of the Assessing Authority Nurpur, (Respondent Number 2) were directed to deposit a pre condition amount Rs. 9,72,325/- against the additional demand of Rs. 25,64,956/- and Rs. 12,41,236/- for the year 2017-18 and 2018-19 created by the Assessing Authority.
2. The Appellant prayed that the penalty charge u/s 16(6) & 16(7) amounting to Rs. 27,05,678/- for the year 2017-18 be dropped as the same is not chargeable on the facts and circumstances of the case and has prayed that the interest amounting to Rs.



58,359/- and Rs. 1,31,164/- be not charged in view of the facts and circumstances of the case.

3. The Ld. Appellate authority as per order dated. 13-09-2019 had directed to deposit an amount of Rs. 9,72,325/- i.e. 25% of the total demand, as a condition precedent to admission of the appeals. Thereafter, plenty of opportunities were given to the dealer to deposit the amount but he has not deposited the conditional amount hence, the appeal was dismissed dated 25-03-2021.
4. I have heard the arguments of both the parties, perused the record and law on the subject. I am convinced that the Ld. Appellate Authority has given ample opportunity to the appellant to deposit conditional amount which was 25% of the additional demand. The interest and penalty has been charged by the Assessing Authority as per Section 19 of HP VAT Act, 2005. In my considered opinion the order of Appellate Authority is reasonable and just. Accordingly, the appellant shall deposit the amount ordered by Appellate Authority as per order dated 13-09-2019 within one month i.e. on or before 04-07-2022 for the said purpose. The Ld. Appellate Authority shall thereafter on verification of TR receipts shall decide the case on merits. Failure to deposit the amount would result in forfeiture of the petitioner right to avail the opportunity of Appeal under the HPVAT Act.
5. Copy of this order be sent to the party concerned. File after due completion be consigned to the record room.



(Akshay Sood)
Chairman,
HP Tax Tribunal,
Camp at Shimla

Endst. No HPTT/CS/2022- 96 to 100

Dated 03-06-2022

Copy to:-

1. The Commissioner State Taxes & Excise, Himachal Pradesh, Shimla-09.
2. The Jt. Commissioner of State Taxes and Excise, NZ, Palampur, HP.
3. M/s Himachal Filling Station, Jassur, Tehsil Nurpur, Himachal Pradesh.
4. Shri Rakesh Sharma, Advocate for the Appellant.
5. Deputy Director, Legal, HQ.


Reader
HP Tax Tribunal
Camp at Shimla