

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

Appeal No. : 17/2022
Date of Institution : 18-04-2022
Date of order : 20-04-2023

In the matter of:

M/s N.B. Jewellers, Sanjauli, Shimla

.....Appellant

Vs

- i) The Commissioner ST&E, Shimla, Shimla, HP, Shimla.
- ii) DETC- Cum- FS, CZ, Una HP.
- iii) The ETO, FS(NZ) Palampur & Swarghat.

.....Respondents

Parties represented by:-

Ms. Narvada and Sh. Dikken Kumar, Advocates for the Appellant.
Shri Sandeep Mandyal, Sr. Law officer of the dept. for the Respondents

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

Order

1. The present appeal has been filed by M/s N.B. Jewellers, Sanjauli, Shimla, Himachal Pradesh against the order of the Commissioner of State Taxes and Excise, Shimla, HP, dated 29-12-2021 vide which the appeal filed by the appellant against the order dated 06-11-2015 of the Assessing Authority FS/NZ, Palampur (Respondent No.2) was dismissed by the Ld. Appellate Authority on the ground that detection done by Assessing Authority is as per law and inspecting team was duly empowered under the act to inspect the goods and documents related thereto when dealer was found selling gold ornaments in Kullu, Himachal Pradesh .
2. The Appellant has prayed to quash the impugned order of the appellate authority and requested that appellant be granted opportunity to substantially explain his contention for the aforesaid detection done by inspecting team of FS NZ Palampur. He further averred that proper inquiry shall be instituted against the orders of detection done by



respectively inspecting team. It has been prayed that the levy of penalty under Section 34(7) of the HP VAT Act, 2005 should be quashed as it is against the procedure established by the law.

3. I have heard the Ld. Counsel and perused the law on the subject. I am convinced that the Ld. Appellate Authority has rightly dismissed the appeal of the appellant. The appeal does not hold ground as it is clear that inspecting team was fully empowered to decide the matter as per Department Notification No. EXN-F (10)-5/81 Shimla, dated 28th of September, 2004, which has duly authorized the Respondent Number 2 to decide detection cases under his jurisdiction. Moreover, the provisions of Section 34 of the HP VAT Act were automatically applicable against the appellant, thus penalty has been lawfully imposed. Further, it is seen that that the impugned order of the Appellate Authority dated 29-12-2021 cannot be held to be a non-speaking order as it is a very detailed order. It would be relevant to peruse Para 5, 6, 7 and 8 of the Appellate Authority's order dated 29-12-2021, which show that the Appellate Authority has examined various aspects of the case/ grievance of the petitioner relating to availability of valid record, giving due opportunity to the Appellant, the jurisdiction of the Flying Squad to inspect/ do assessment and applicability of section 34 of HP VAT Act, 2005. The appellate Authority has given detailed reasons to explain the ground of rejection of Appeal, which I am unable to find fault with.
4. In view of the above, **the appeal does not merit any consideration and is dismissed.** The impugned order of the Assessing Authority dated 06-11-2015 and the order of the Appellate Authority dated 29-12-2021 are upheld.
5. Copy of this order besent to the party concerned. File after due completion be consigned to the record room.



(AkshaySood)

Chairman,

H P Tax Tribunal Camp at Shimla
HP Tax Tribunal,
Block No 30, SDA Complex Shimla
Camp at Shimla

Endst. No HPTT/CS/2023- 48 to 52

Dated 20-04-2023

Copy to:-

1. The Commissioner State Taxes & Excise, Himachal Pradesh, Shimla-09.
2. The DETC, FS, NZ Palampur, Distt Kangra, HP.
3. M/s N.B Jeweler, Sanjauli, Shimla, HP.
4. MsNarvada and ShriDikken Kumar, Advocates for the Appellant.
5. Sh. SandeepMandyal, Sr. Law Officer, HQ.

o/c
/ cum
/ IT cell

Reader

HP Tax Tribunal

HP Tax Tribunal Shimla,
Camp at Shimla
Block No 30, SDA Complex Shimla-9