

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

Appeal No. : 1 & 2/2022
Date of Institution : 28-01-2022
Date of order : 29-03-2023

In the matter of:

M/s Joshi Brothers, Kachighati, Shimla Distt. Shimla

.....Appellant

Vs

i) The Appellate Authority-Cum-Addl. CST&E, SZ, Shimla-09, Shimla,
HP, Shimla.

ii) AETC- Cum- Assessing Authority Shimla.

.....Respondents

Parties represented by:-

Shri Rakesh Sharma, Advocate for the Appellant.

Shri Sandeep Mandyal, Sr. Law officer of the Deptt. for the Respondents

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

Order

1. The present appeals have been filed by M/s Joshi Brothers, Kachighati, Shimla Distt. Shimla Himachal Pradesh against the order of Addl. Commissioner of State Taxes and Excise, SZ, Shimla, HP, dated 12-11-2021 vide which, the appeals filed by the appellant against the order dated 19-12-2015 of the Assessing Authority Cum AETC, Shimla (Respondent Number 2) were dismissed by the Ld. Appellate Authority on the ground that the Assessing Authority has rightly assessed/ scrutinized the records of the appellant dealer for the said financial year 2012-13 and 2013-14. The order of the Assessing authority cum AETC dated 19-12-2015 creating a demand of Rs. 17,00,000/- under the HP VAT Act, 2005 was also upheld.

2. The Appellant has prayed that the appeals be accepted and impugned order be quashed, as also with the additional demand created against the appellant and appellant be granted opportunity to substantially explain his returns/ records for the aforesaid financial years so that he could corroborate his records on the mismatches as alleged/ derived by the Assessing Authority in his order. It has been prayed that the matter be remanded to the Assessing authority to finalize the Assessment afresh after considering the records of the selling dealers and reinvestigate the variation in sale



and purchases in respect of Timco Steel amounting to Rs. 9,20,205/- i.e. for the year 2012-13 and in respect of three other dealers including the said dealer amounting to Rs. 56,10,543/- for the year 2013-14. It has been prayed that appellant may also be granted opportunity to respond to the mismatch in the check post or the barrier record. The request of the appellant has been duly considered and I feel that there is merit in the Appellant's contention regarding Assessment and matching of purchases.

3. I am of the considered opinion that the Ld. Assessing Authority may to hear the appellant's contention of putting purchases of other dealers in to the account of M/s ACC Ltd. for the year 2012-13 and take on record of LS-1 and LP-1 of years 2012-13 and 2013-14 for corroboration and adjudicate upon admissibility on the same as per the provisions of the HPVAT Act, 2005 and the rules made there under and also consider and decide upon the questioned Form- XXVI-A mismatch, after hearing the Appellant. **Accordingly, the case is remanded back to the Assessing authority with the direction that the appellant shall appear before the Respondent No. 2 or before 29-04-2023 for the said purposes.** The Ld. Assessing Authority shall thereafter pass the necessary consequential orders and send a copy of consequential orders thus passed to Tribunal within one week after passing of the order.
4. Copy of this order be sent to the party concerned. File after due completion be consigned to the record room.



(Akshay Sood)

Chairman,

H P Tax Tribunal Shimla.
Block No. 30, SDA Complex Shimla-9

Endst. No HPTT/CS/2023- 38 to 42

Dated 29-03-2023

Copy to:-

1. The Commissioner State Taxes & Excise, Himachal Pradesh, Shimla-09.
2. The Addl. CST&E, SZ, Shimla-09 HP.
3. M/s Joshi Brothers, Kachighati, Shimla.
4. Shri Rakesh Sharma, Advocate for the Appellant.
5. Sh. Sandeep Mandyal, Sr. Law Officer, HQ.



Reader

H P Tax Tribunal Shimla
Block No. 30, SDA Complex Shimla-9