

From

The Excise and Taxation Commissioner, Haryana,
Vanijya Bhawan, Sector 5, Panchkula.

To

All Dy. Excise and Taxation Commissioners (ST),
All Dy. Excise and Taxation Commissioner (Excise),
All Dy. Excise and Taxation Commissioner (PGT)
In State of Haryana.

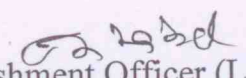

Memo No. 3512 /DA/A-IV,
Panchkula, dated the 18-6-14

**Subject:- Circulation of order passed by HTT in STA No.897/10-11 titled
as M/s Faridabad Fabricators. P. Ltd., Faridabad.**

Memo

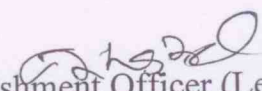

Please find enclosed a copy of order passed by Hon'ble Haryana Tax
Tribunal dated 30.01.14 in appeal cited as subject.

It may please be brought to the notice of all assessing authority
working under you.


Establishment Officer (Legal Cell),
for Excise and Taxation Commissioner,
Haryana. 

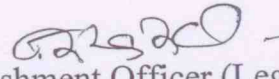

Endst. No. 2513 /DA/A-IV, Panchkula, dated the 18-6-14
A copy alongwith enclosures is forwarded to the following:-

1. All Jt. Excise and Taxation Commissioners (Range),
2. All Jt. Excise and Taxation Commissioners (Appeal),


Establishment Officer (Legal Cell),
for Excise and Taxation Commissioner,
Haryana. 

A copy alongwith enclosures is forwarded to the following in the
head office:-

1. All Additional Excise and Taxation Commissioner
2. Jt. Excise and Taxation Commissioner
3. Jt. Director (Legal) I & II
4. All DA, DDA, ADA
5. All branch Incharge
- ✓ 6. Programmer to upload on official website.
7. P.S. to ETC, Haryana for information of ETC, Haryana.


Establishment Officer (Legal Cell),
for Excise and Taxation Commissioner,
Haryana. 

U.O. No. 519 /DA/A-IV, Panchkula, dated the 18-6-14

IN THE HARYANA TAX TRIBUNAL AT CHANDIGARH

STA No. 897 of 2010-11

M/s Faridabad Fabricators (P) Ltd., Faridabad

385/13-14

---Appellant

Vs.

State of Haryana

---Respondent

**CORAM: SHRI K.S.BHORIA, CHAIRMAN
SHRI HARPAL SINGH BOORA, MEMBER**

Present: 1. Sh. Rajiv Agnihotri, Counsel for the appellant
2. Sh. N.K.Gupta, Joint Director (Legal) for the State.

Heard on 20.11.2013

ORDER

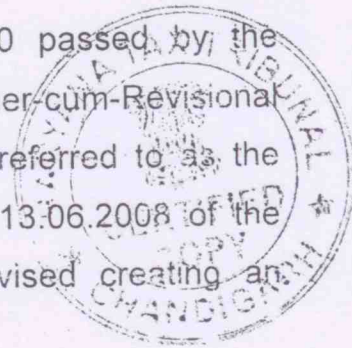
K.S. Bhoria, Chairman:

1. This appeal arises from the order 323.11.2010 passed by the Deputy Excise and Taxation Commissioner-cum-Revisonal Authority, Faridabad (West) (here-in-after to be referred to as the 'Revisonal Authority') whereby the order dated 13.06.2008 of the Assessing Authority, Faridabad (West) was revised creating an additional demand of Rs. 96.361/-.
2. The Assessing Authority, Faridabad (West) finalized the assessment of the appellant company for the year 2004-05 vide order dated 04-03-2008. However, the Revisonal Authority while examining the assessment record of the case found an illegality and impropriety in the assessment order as given below:-

“The Assessing Authority has wrongly assessed the turnover of Rs.15,12,896/- @ 10% whereas, the same was liable to tax @ 12% being sale of precision sheet metal pressed (Especially Deep Drawn) & Fabricated Components.”

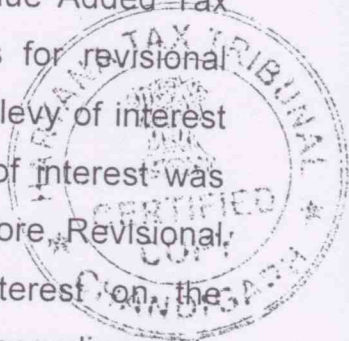
3. Accordingly a notice for the revision of the assessment order was issued to the appellant. It was found by the Revisonal Authority that the products in question were liable to tax @ 12% instead of 10% in view of the Government Notification No. S.O. 93/H.A./2003/S.59/2003/dated 08.07.2003. It was also admitted by the appellant during the proceedings. As the appellant-assessee had failed to levy the correct rate of tax as prescribed and failed to

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deposit the due tax, he was, therefore, also liable for interest. The Revisional Authority accordingly assessed the goods @ 12% and charged an interest of Rs.66,103/- for the short payment of the difference of tax Rs.30,258/- by about 2215 days vide orders dated 23.11.2010. It is against the above orders of the Revisional Authority that the present appeal has been filed before the Tribunal.

4. The Id. counsel for the appellant during his argument before the Tribunal did not dispute the rate of tax which admittedly was 12% in place of 10% as charged by the Assessing Authority. He, however, contested the charging of interest on the difference amount of tax. He submitted that Section 34(1) of the Haryana Value Added Tax Act, 2003 (in short the HVAT Act) which provides for revisional powers to the Commissioner does not envisage any levy of interest by the Revisional Authority. The issue of charging of interest was never part of the assessment proceedings and, therefore, Revisional Authority was not empowered to charge any interest on the additional demand created during the revisional proceedings. He further contended that the provision of charging of interest is applicable only if the assessee fails to deposit the tax whereas in the present case the appellant did not collect any tax on the goods in question and, therefore, there is no question of failure to deposit the tax. Further, the non-deposit of additional tax does not prove that there was any malafide intention on the part of the appellant as the appellant had not recovered any tax and kept as its own or used for its business. In support of his argument, the Id. counsel referred to the judgement of the Hon'ble Punjab and Haryana High Court in the case reported as [1997] 10 PHT 111 (P&H) and the judgment of the Tribunal reported as 32 STI 1. He also submitted photo copies of the judgement of the Hon'ble Punjab and Haryana High Court reported as [2010] 37 PHT 532 (P&H) and [2010] 37 PHT 519 (P&H) in support of his argument.
5. Opposing the contention of the appellant, the learned State Representative submitted that during the relevant assessment period, the rate of tax on the goods in question was 12% and not 10%. The Assessing Authority wrongly charged the tax @ 10% which was rightly revised by the Revisional Authority by levying the tax @ 12% as per Government Notification dated 08.07.2003. The appellant was required to apply the correct rate of tax as per law law



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