

**IN THE PUNJAB AND HARYANA HIGH COURT  
AT CHANDIGARH**

STC No.2 of 2010 (O&M)  
Date of Decision: 10.12.2010

M/s Golden Chem-Tech Ltd.

...Applicant

Versus

Higher Level Screening Committee and another

.....Respondents

**CORAM: Hon'ble Mr. Justice Adarsh Kumar Goel  
Hon'ble Mr. Justice Rajesh Bindal**

Present: Mr. Suresh K. Yadav, Advocate for the applicant.

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**RAJESH BINDAL, J.**

This is an application filed by the assessee under Section 42 (2) of the Haryana General Sales Tax Act, 1973 (for short "the Act") seeking a direction to the Haryana Tax Tribunal (for short "the Tribunal") for referring the following questions of law, arising out of the order dated 22.05.2007 passed in STA No.258 of 2006-07 by the Tribunal:-

- “(a) Whether the facts and circumstances of the case warrant application of doctrine of legitimate expectancy?
- (b) Whether a tax that was not collected by the applicant legitimately expecting to be entitled to tax benefit up to 23.08.2001 could be recovered from the applicant?”

Briefly, the facts of the case are that the applicant-Company purchased a sick industrial unit in auction held by Haryana Financial Corporation (for short "HFC") on May 25, 2000. The aforesaid unit had been set up with financial assistance from HFC and was owned by another company, namely, Haryana Nitrocham Ltd. The aforesaid company had

been granted exemption under Rule 28-A of the Haryana General Sales Tax Rules, 1975 (for short “the Rules”) for a period of 9 years from 24.08.1992 to 23.08.2001 with over all ceiling of ₹ 222.30 lacs. After the purchase of the unit, the applicant-company applied to the Department of Industries on July 19, 2000 for transfer of the balance amount of tax concession for the balance period. On recommendation of Lower Level Screening Committee, the matter was considered by the Higher Level Screening Committee which declined the claim of the applicant on May 23, 2006. Aggrieved against the order passed by the Higher Level Screening Committee, the applicant preferred an appeal before the Tribunal, which was rejected vide order dated 22.05.2007. Thereafter, the applicant filed an application before the Tribunal with a prayer for referring the questions of law, arising out of the order dated 22.05.2007, to this Court for its opinion. The aforesaid application having been rejected vide order dated March 27, 2009, the applicant is before this Court.

Learned counsel for the applicant submitted that the applicant in the present case had purchased a sick industrial unit, which was already availing benefit of exemption from payment of tax. As the unit went sick, to recover the loans advanced to it, HFC sold the unit and the applicant purchased that unit considering the precedence, where the Sales Tax Authority had permitted passing of balance sales tax exemption benefits to the new company, which purchased the unit availing exemption from tax, but had gone sick. However, on enquiry as to whether there is any enabling provision in the Act or the Rules, which provides for transfer of the benefit of exemption from one unit to another or that eligibility or exemption certificate is a tradable/transferable document, the answer was in negative.

After hearing learned counsel for the applicant, we do not find any merit in the present application. In the absence of any enabling provision, providing for transfer of the eligibility exemption certificate from Unit-A in favour of Unit-B, such an application filed by the applicant was totally mis-conceived. Merely, because in some case, the Departmental authorities had acted in a manner, which is totally beyond the provisions of the Act and the Rules, the applicant cannot base its claim thereon. Even otherwise, it has been noticed in the order passed by the Tribunal that the eligibility certificate issued to Haryana Nitrocham Ltd. already stood withdrawn in the year 1997 and the unit was purchased by the applicant only in May, 2000.

For the reasons mentioned above, we do not find any question of law arises out of the order passed by the Tribunal which requires consideration by this Court. Accordingly, the application is dismissed.

**(ADARSH KUMAR GOEL)**  
**JUDGE**

**(RAJESH BINDAL)**  
**JUDGE**

10.12.2010  
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