

**BEFORE**  
**THE COMMISSIONER OF STATE TAXES & EXCISE,**  
**HIMACHAL PRADESH, SHIMLA-171009**

Appeal No.: 101/2016-17

Date of Institution: 07-07-2017

Date of Order: 01-09-2022

**In the matter of:-**

M/s Him Store, H. No. A-1/39,  
Sector-6, Parwanoo, Solan (H.P.) ..... **Appellant**  
*Versus*  
Deputy Excise and Taxation Commissioner-cum-  
Assessing Authority, Flying Squad, South Zone at  
Parwanoo, District Solan (HP) ..... **Respondent**

**Present:-**

- 1) Sh. Rajeev Kumar, Advocate, vice Shri Vishal Mohan  
    Ld. Counsel for the appellant.
- 2) Sh. Sandeep Mandyal, Ld. Senior Law Officer for the  
    respondent.

**ORDER**

1. The present appeal was filed by the appellant M/s Him Store, H. No. A-1/39, Sector-6, Parwanoo against the orders dated 29-04-2017 passed by the Deputy Excise and Taxation Commissioner-cum-Assessing Authority, Flying Squad, South Zone, at Parwanoo, District Solan vide which a total additional demand of Rs. 1,07,14,822/-



was created against the appellant for the years 2013-14, 2014-15 and 2015-16 (up to 31-12-2021) on account of VAT and interest under section 16 of the HP VAT Act, 2005 (hereinafter referred to as "the Act").

2. Aggrieved by the above order, the appellant filed appeal above before this court. This court *vide* an interim order, dated 23-02-2018, before entertaining the appeal above, as per provisions of the section 45 (5) of the Act, directed the appellant to deposit conditional amount of ₹ 36, 76, 479/-. However, the appellant preferred an appeal, against this interim order, before the Ld. HP Tax Tribunal. The Ld. Tribunal *vide* order dated 25-06-2022 dismissed the appeal filed by the appellant. The appellant was, therefore, issued notices dated 02-07-2022 and 08-08-2022 and was again directed to deposit the original conditional amount of ₹ 36, 76, 479/-.
3. S/Shri Sushant Keprait and Aditya Sood, Ld. Counsels for the appellant on dated 24-08-2022 requested for granting a week's time to contact the appellant and deposit the conditional amount. Allowing the request and time till 01-09-2022, the matter, to show proof of depositing the amount was accordingly listed for 01-09-2022.
4. On 01-09-2022 Shri Rajeev Kumar, Ld. Counsel appeared vice Shri Vishal Mohan, original Counsel, for the appellant and submitted that a sum of ₹ one lakh only is being deposited today itself. In order to test the





bonafide intention of the appellant, Ld. Counsel was directed to show the proof of deposit of amount by 04:30PM, today itself.

5. Shri Rajeev Kumar Advocate, vice, for the appellant produced a copy of E-Challan with HIMGRN A22I103882, dated 01-09-2022 wherein an amount of ₹ one lakh has been deposited as additional demand/interest for the period 01-04-2021 to 30-06-2012. However, from record perusal it is revealed that the appellant is in appeal before this court for the Assessment Years 2013-14, 2014-15 and 2015-16 (up to 31-12-2015) only. Therefore, the above proof of deposit of ₹ one Lakh only in lieu of conditional amount of ₹ 36, 76, 479/- directed to be deposited in the matter, before the appeal is entertained, is neither sufficient nor does it pertain to the relevant years { 2013-14, 2014-15 and 2015-16 (up to 31-12-2015)} for which the impugned demand has been created.
6. The appellant, thus, despite having been given due opportunities in the matter above, has failed to deposit the directed conditional sum and, has, thus, failed to abide by the provisions of sub section (5) of Section 45 of the Act. For above contravention of the provisions of the Act, the instant appeal, as per provisions of the section 45 (5) of the Act *ibid* is not maintainable and is, therefore liable to be dismissed and is accordingly dismissed.



**HIM STORES PARWANOO VS DETC SEZ PARWANOO**  
**APPEAL NO. 101/2016-17**

Inform all the concerned parties accordingly. File after completion be consigned to record room.

Announced on this day i.e. 1st of September, 2022.

Commissioner of State Taxes & Excise  
-cum- Appellate Authority,  
Himachal Pradesh Shimla-09



Endorsement No.:ST&E/CoST&E/Appeals/Reader/2022-23/ 27823-828  
Dated: 05-09-2022

**Copy for information and necessary action to:**

1. M/s Him Stores, H. No. A-1/39, Sector 6, Parwanoo, Solan, (HP).
2. Jt. Commissioner State Taxes & Excise, SEZ, Parwanoo.
3. Dy. Commissioner State Taxes and Excise, District Solan.
4. Shri Vishal Mohan, Ld. Advocate, 4, Argyle House, The Mall Shimla-01.
5. Shri Sandeep Mandyal, Sr. Law Officer (Legal Cell), HQ.
- ✓ 6. IT Cell.

**Reader**

**Commissioner of State Taxes & Excise,**  
**Himachal Pradesh**