

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 14012 of 2014

Date of Decision: 08.04.2015

Huntsman International India Pvt. Ltd.

..Petitioner

versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE G.S.SANDHAWALIA.

Present : Mr. Sanjeev Sharma, Sr. Advocate with
Ms. Bhavna Joshi, Advocate, for the petitioner.

Ms. Mamta Singla Talwar, Assistant Advocate General,
Haryana, for the respondents.

S.J.VAZIFDAR A.C.J. (Oral)

The dispute in this writ petition is whether the forms now sought to be relied upon by the petitioner before the Appellate Authority are the same as those which were furnished at the time of assessment. The respondents contend that such forms were produced at the time of assessment as well and therefore, nothing further requires to be considered. It is desirable and also agreed between the parties that this enquiry be undertaken in the first instance by the Appellate Authority.

2. Mr. Sharma, learned Senior Counsel appearing on behalf of the petitioner fairly states that if the documents were already there before the first Appellate Authority, the petitioner's grievance would not be justified. Whether the forms relied upon by the petitioner ought to be taken into consideration or not even assuming that they were not produced in the assessment proceedings is for the Appellate Authority to decide. It is necessary for the Appellate Authority to consider this issue in the first instance in view of the fact that the order of the Appellate Authority itself

records that few of the forms had already been produced at the time of assessment. There is no categorical finding as to which forms were produced and which, if any, were not produced at the time of assessment proceedings. The forms now sought to be relied upon by the petitioner which according to the petitioner were not produced during the assessment proceedings are tabulated in paragraph-2 of an affidavit of one Sunil Kukreja dated 28.01.2015.

3. In the circumstances, the petition is disposed of by setting-aside the impugned order and remanding the matter to the Appellate Authority for fresh decision. The guarantee furnished by the petitioner for the entire amount of demand shall be kept alive pending decision upon remand and for a period of six weeks thereafter. The respondents shall be entitled to receive the payment pursuant to invocation of the bank guarantee but shall invest the amount in fixed deposit of a nationalized bank. The fixed deposit shall be kept alive at least for a period of eight weeks after the fresh order is passed by the Appellate Authority. The amount of the fixed deposit together with interest thereon shall abide by the result in the appeal and any challenge thereto.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S.SANDHAWALIA)
JUDGE

08.04.2015
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