

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

**CWP No. 14078 of 2015
Decided on : 09.09.2015**

M/s M.K. International

... Petitioner

Versus

The State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

PRESENT: Mr. J.S. Bedi, Advocate
for the petitioner.

Mr. Jagmohan Bansal, Addl. AG, Punjab.

AJAY KUMAR MITTAL, J. (Oral)

The petitioner has approached this Court under Articles 226/227 of the Constitution of India, seeking quashing of impugned detention notice dated 9th July, 2015 (Annexure P-1) issued by respondent No.4. A further payer has also been made for issuance of a writ in the nature of *Mandamus* directing the respondents to release the Truck bearing No. PB02-BD-9648 along with the goods.

2. Learned State counsel has filed the reply by way of affidavit of Sh. Rajesh Bhandari, AETC, Amritsar-II, on behalf of respondents No.1 to 4 in Court today and the same is taken on record. It has been stated by the learned State counsel that a penalty order under Section 7 of the Punjab Development of Trade and Commerce and Industry Ordinance 2015 (in short 'the Ordinance 2015') read with Section 51(7)(c) of the Punjab Value Added Tax Act, 2005 (for brevity 'Act of 2005'), imposing, a liability of ₹1,41,697/- (inclusive of Penalty and Entry Tax) upon the petitioner has been passed on 22nd July, 2015. A photocopy of the penalty order has been

produced in Court, which is also taken on record, subject to all just exceptions.

3. Learned State counsel submitted that the prayer made in the writ petition for release of Truck bearing No. PB02-BD-9648 along with the goods can only be accepted by the respondents, if the petitioner furnishes Bank Guarantee equivalent to the amount of Penalty and Entry Tax i.e. ₹1,41,697/-, which shall not be encashed by the respondents till the question of vires of the Ordinance 2015 is decided by this Court in the other matters pending for final adjudication. It was also pointed out that the petitioner can file an appeal against the aforesaid order dated 22nd July, 2015.

4. In view of the above, while disposing of the present writ petition, it is observed that on furnishing the Bank Guarantee equivalent to the amount of Penalty and Entry Tax i.e. ₹1,41,697/- by the petitioner, the Truck bearing No. PB02-BD-9648 along with the goods shall be released by the respondents. However, the said Bank Guarantee shall not be encashed by the respondents till the question of vires of the Ordinance 2015 is decided by this Court in the other matters pending for final adjudication. It shall, however, be open to the petitioner to challenge the order dated 22nd July, 2015, before the appropriate authority, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

September 09, 2015

J.Ram