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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
CWP No. 12888 of 2015 (O&M)
Date of Decision: 08.08.2016

M/s. Goodyear India Ltd. ...Petitioner

Versus

UT, Chandigarh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU.

Present: Mr. Rajiv Agnihotri, Advocate for the petitioenr.

Mr. Daman Dhir, Advocate for
Mr. APS Gill, Advocate for respondents No. 1, 2 and 4.

Mr. Yogesh Goel, Advocate for respondent No. 3.

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Rajesh Bindal, J.

The petitioner has approached this Court against the order dated 03.04.2015 (Annexure P-1) passed by the Excise & Taxation Officer-cum-Designated Officer-cum-Notified Authority, Ward-3, U.T., Chandigarh for the assessment year 2011-12, whereby demand of ₹3,55,242/- was created.

The contention of learned counsel for the petitioner is that it had deposited a sum of ₹15, 63,097/- in the account of the Department with Axis Bank on 18.07.2011. However, the Department had given credit of ₹10,80,183/- and not for the balance amount of ₹4,82,914/-. If the credit of the entire amount deposited by the petitioner is given, there would be no additional demand against the petitioner, rather petitioner would be entitled to refund. The amount, credit of which has not been given is more than the demand raised.

Learned counsel for respondent No. 3-Bank submitted that, the bank had received a sum of ₹15,63,097/- from the petitioner. The entire amount was credited in the account of the Excise & Taxation Department on 23.07.2011 after the cheque given by the petitioner was encashed. He further submitted that due to clerical error, sum of ₹10,80,183/- was credited in the account of the petitioner whereas balance amount of ₹4,82,914 was credited in the account of Naresh Marble Company Ltd. When the error came to the notice of the bank, Assistant Excise and Taxation Commissioner, Chandigarh was informed vide letter dated 14.07.2012 and it was specifically mentioned that the petitioner had deposited a sum of ₹15,63,097/- and deserves to be given credit thereof.

Learned counsel for the respondent-Department submitted that the aforesaid communication was received by the Department from the bank. He did not dispute the fact that the credit of amount which was shown by the bank in the account of Naresh Marble Company Ltd. was not given to that firm. He further submitted, on instructions from Ravi Kumar ETI, Excise and Taxation Department, U.T., Chandigarh, that once the bank has clarified that there was an error in mentioning the names against whom the amount was credited, the same shall be corrected by the Department and credit of additional amount of ₹4,82,914/- will be granted in the petitioner's account and the assessment order passed on 03.04.2015 shall be rectified.

At this stage, learned counsel for the petitioner submitted that as admittedly the petitioner had deposited the amount of tax due from the petitioner on 23.07.2011, the petitioner shall not be liable to pay any interest merely because on account of an error by the bank the credit thereof is being given now.

To this contention, learned counsel for the Department fairly submitted that as there was error in the transaction as noticed above and the petitioner had deposited the amount well in time but the credit could not be given at the time of framing of the assessment, no interest shall be charged from the petitioner and to whatever refund the petitioner shall be entitled to after the order is rectified, the same shall be granted after adjusting any demand due from the petitioner.

After hearing learned counsel for the parties and considering their fair stand, the present petition is disposed of with a direction to respondent No. 2 to rectify the order of assessment dated 03.04.2015 by giving credit of ₹4,82,914/- to the petitioner which admittedly stood deposited by it, credit of which was given by the bank in the account of the Department on 23.07.2011. Needful shall be done within a period of four weeks from today. The petitioner shall not be liable to pay any interest on the demand raised by the Department in the assessment order dated 03.04.2015 as admittedly the amount stood deposited with the Department before the due date.

In case the petitioner is entitled for refund after the order of assessment is rectified, the same shall be granted to it after adjusting any amount due from the petitioner.

(RAJESH BINDAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

August 08, 2016
Divyanshi

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No