

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

**CWP No.20878 of 2016 (O&M)
Date of Decision: October 04, 2016**

M/S BHAVIKA OVERSEAS

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Sandeep Goyal, Advocate for the petitioner.

Mr. Jagmohan Bansal, Addl. AG, Punjab.

RAJESH BINDAL, J.

The grievance of the petitioner is that even though no demand notice for payment of the amount of penalty levied was issued, still the bank guarantee furnished by the petitioner at the time of release of goods is sought to be encashed. The petitioner is not able to seek interim stay from the Appellate Authority in the absence of a demand notice.

Learned counsel for the State, on instructions from Mr. Rajat Agarwal, Excise and Taxation Commissioner, Punjab, who is present in Court, submitted that though presently the demand notice is being issued only in case the demand is raised in pursuance of the assessment order, however, in future instructions will be issued to all the concerned authorities for issuing demand notices for deposit of any amount due to the department after an order is passed. He further submitted that in the case in hand, a demand notice shall be issued to the petitioner in pursuance of the order levying penalty. Only after the time granted for payment thereof as per the notice will expire that the process shall be initiated for recovery of the amount. He further submitted that at present as the notice for

demand has not been issued to the petitioner, the bank guarantee already submitted by the petitioner shall not be encashed, till such time, time granted in the demand notice expires or till such time, the application for stay filed by the assessee before the Appellate Authority is decided.

(RAJESH BINDAL)
JUDGE

(DARSHAN SINGH)
JUDGE

October 04, 2016
rajneesh

Whether speaking/reasoned : Yes/ No

Whether reportable : Yes/ No