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

CWP No.7033 of 2015 (O&M)
Date of decision: 26.9.2016

M/s Rama Industries Ltd.

..... Petitioner

Versus

State of Punjab and another

......Respondents

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

Present: Mr. Avneesh Jhingan, Advocate, for the petitioner.

Mr. Piyush Bansal, Deputy Advocate General, Punjab.

RAJESH BINDAL, J

Challenge in the present petition is to the show cause notice issued to the petitioner for levy of penalty under Section 51 (7) (b) of the Punjab Value Added Tax Act, 2005 (for short, 'the Act'). The petitioner sold 80 bags of calphor to M/s Godrej Agrovet Limited vide invoice dated 30.3.2015. The goods were detained at ICC Banur, Patiala alleging that there is an attempt to evade tax. Show cause notice was challenged before this Court raising a plea that goods being tax free and consignments have been declared voluntary at ICC, Banur, there is no attempt to evade tax. Assessments of the petitioner were framed ealier by the assessing authority accepting the fact that the goods were tax free. Further point raised by the petitioner is that the issue of classification of goods could not be decided in the summary proceedings under Section 51 of the Act.

The proceedings in pursuance to the show cause notice have already been concluded. The order dated 10.1.2015 has been passed imposing penalty of ₹ 42,330/- and the goods were released on furnishing of cash security of the amount, which was adjusted. In view of the aforesaid factual background, learned counsel for the petitioner submitted that the petitioner may be permitted to withdraw the present petition with liberty to file statutory appeal before the appellate authority within certain time and the appeal may be entertained on merits.

Learned counsel for the State fairly submitted that in case the petitioner files appeal against the order levying penalty within a period of four weeks from today, the same shall not be dismissed only on the ground of delay but will be considered and decided on merit.

After hearing learned counsel for the parties, the petitioner is permitted to withdraw the present petition with liberty to avail alternative remedy of appeal against the order dated 10.1.2015 levying penalty in pursuance to the show cause notice impugned in the present petition, within a period of four weeks from today. The same shall not be dismissed only on the ground of delay but shall be considered and decided on merit.

(RAJESH BINDAL)
JUDGE

(DARSHAN SINGH)
JUDGE

26.9.2016
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No