IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8264 of 2016 (O&M)
Date of decision: 20.9.2016

M/s Dass Rice & Oil Mills

.. Petitioner

v.

The State of Punjab and others

.. Respondents

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

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

Mr. Jagmohan Bansal, Addl. Advocate General, Punjab.

...

Rajesh Bindal J.

The only prayer made by the petitioner in the present petition is for grant of interest on account of delayed refund of the amount of tax, as was found refundable vide assessment order dated 22.6.2015. The application for refund was filed on 30.11.2015. As per the provisions of Section 40 of the Punjab Value Added Tax Act, 2005 (for short, 'the Act'), the refund is to be granted within a period of 60 days from the date of application. Refund of ₹ 46,40,231/- was granted to the petitioner on 18.7.2016. The claim is for grant of interest for the period after expiry of 60 days from the date of filing of application till the refund was granted.

The stand of learned counsel for the State is that as there was certain error regarding calculation of purchase tax, the matter was referred by the Assistant Excise and Taxation Officer-cum-Designated Officer to the Commissioner, Excise & Taxation, Punjab (for short, 'the Commissioner') for amendment of the order vide communication dated 19.1.2016. The same was granted by the Commissioner on 26.2.2016. The amended order was passed on 27.6.2016 and the refund was granted on 18.7.2016, hence, the petitioner is not entitled to any interest.

After hearing learned counsel for the parties, we find that the petitioner herein is entitled to interest on ₹ 46,40,231/-, the amount refunded, for the period after expiry of 60 days from the date of filing of application for refund on 30.11.2015 till the amount was refunded on 18.7.2016. It is not in dispute that there is no order passed by the competent authority for withholding of refund due to the petitioner. Such an order could be passed by any authority with prior approval of the Commissioner. Only approval was sought for amendment in the assessment order. The same was granted. The amount of refund was reduced. That is not being disputed by the petitioner. Whatever amount has been refunded to him, the interest is being claimed on that amount.

For the reasons mentioned above, the writ petition is allowed. The petitioner is held entitled to payment of interest for the period after expiry of 60 days from 30.11.2015 till 18.7.2016 on the refunded amount, i.e., ₹ 46,40,231/-, in terms of the provisions of Section 40 of the Act.

(Rajesh Bindal)
Judge

(Darshan Singh)
Judge

20.9.2016
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No