IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Vat Appeal No.32 of 2016 (O&M)
Date of Decision: August 08, 2016

M/s Chatley & sons
...Appellant

Versus

The State of Punjab …Respondent

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

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

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

RAJESH BINDAL, J.

The present appeal has been filed raising the following substantial questions of law, arising out of the order dated 8.10.2015 passed by the Value Added Tax Tribunal, Punjab (for short, the Tribunal) in Appeal No.598 of 2013 :-

"(i) Whether in the facts and circumstances of the case, the order of the Tribunal Annexure A-7 is sustainable in law?
(ii) Whether in the facts and circumstances of the case, the Tribunal should have waited for the outcome of the pending petition in the High Court?

> *(iii) Whether in the facts and circumstances of the case, Annexure A-5 and A-7 are sustainable in law in view of the decision of the Hon'ble High Court in cases of vires of Section 62(5) of PVAT Act?"*

Learned counsel for the appellant submitted that the issue regarding the power of the Appellate Authority, for grant of stay, during the pendency of the appeal was gone into by a Division Bench of this Court in **CWP No.26920 of 2013** titled **`Punjab State Power Corporation Limited vs. The State of Punjab and others'** decided on 23.12.2015, wherein, it has been opined that the Appellate Authority has the authority to grant interim stay.

The aforesaid judgment was delivered after the Tribunal had passed the impugned order upholding the order of the Adjudicating Authority directing the appellant to deposit 25% of the demand raised, whereas, as per the aforesaid judgment of this Court, the Appellate Authority has the power to grant interim stay and deposit of 25% of the demand was not mandatory.

The aforesaid proposition of law is not disputed by the learned counsel for the State. However, he stated that the State has preferred Special Leave Petition against the judgment of this Court.

After hearing learned counsel for the parties, the impugned order dated 24.7.2013 (Annexure A-5) and the order dated 8.10.2015 (Annexure A-7), are set aside. The matter is remitted back to the Deputy Excise & Taxation Commissioner (Appeals), Ludhiana Division, Ludhiana for fresh consideration of the stay application in terms of the judgment of this Court in Punjab State Power Corporation Limited's case (*supra*).

The appeal is disposed of accordingly.

(RAJESH BINDAL)
JUDGE

August 08, 2016
gian

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned : Yes/ No

Whether reportable : Yes/ No