IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

VATAP No.71 OF 2016 (O&M)
Date of decision: 08.09.2016

M/s Purva Alloys & Products .. Appellant
vs.
The State of Punjab and ors. .. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Varun Chadha, Advocate
for the appellant.

Mr. Jagmohan Bansal, Addl. A.G., Punjab

Rajesh Bindal, J.

The present appeal has been filed raising the following substantial questions of law, arising out of the order dated 29.09.2015 (Annexure A-5) passed by the Value Added Tax Tribunal, Punjab (for short, the Tribunal) in Appeal No.256 of 2014 :-

> *"(i) Whether on the facts and circumstances of the case, both the authorities below were justified in dismissing the appeals of the appellant by holding the condition of pre deposit of 25% as mandatory for the entertainment of appeal?*

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 18.02.2014 (Annexure A-4) and the order dated 29.09.2015 (Annexure A-5), 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

(Harinder Singh Sidhu)
Judge

08.09.2016
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Whether speaking/reasoned Yes/No
Whether Reportable: Yes/No