IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226 **Civil Writ Petition No.26131 of 2016**
Date of decision: February 14, 2017

M/s Bonn Nutrients Pvt. Ltd. ....Petitioner

versus

State of Punjab and others ....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN

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Present: Mr. G.S. Dhaliwal, Advocate for the petitioner.

Mr. Rajinder Goyal, Addl. A.G., Punjab.

Mr. A.K. Bazaz, Advocate for respondents No.2 to 4.

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AJAY KUMAR MITTAL, J. (Oral)

The grievance of the petitioner in this writ petition is against the order dated 10.10.2016 (**Annexure P-9**) whereby respondent No.3 has refused to entertain the appeal of the petitioner filed against the order dated 16.02.2016 (**Annexure P-5**) passed by the Assistant Commissioner Zone B, Municipal Corporation, Ludhiana on the ground that it had not deposited the amount of tax of ₹8,43,962.62/- along with equal amount of penalty of ₹ 8,43,962.62/-.

2. The challenge made by the petitioner is on the ground that on deposit of the demand of tax, the appeal ought to have been heard on merits and the deposit of penalty amount could not be made a condition precedent for hearing of the appeal. Reference was made to Section 112-C of the Punjab Municipal Corporation (Second Amendment) Act, 2013 (in short, 'the Act') and the decision of the Division Bench of this Court interpreting the aforesaid

provision in **Civil Writ Petition No.16836 of 2016**, titled as **'M/s Avon Steel Industries (P) Ltd. vs. State of Punjab and others'**, decided on October 03, 2016 (**Annexure P-12**) wherein it was held that for hearing of the appeal under Section 112-C of the Act, the Municipal Corporation cannot insist for deposit of penalty and only on deposit of the tax amount, the appeal is required to be heard.

3. Notice of motion had been issued to the respondents.

4. Learned counsel for respondents No.2 to 4 states that the petitioner had deposited a sum of ₹ 6,27,540/- on 17.01.2017 and receipt No.34-35/9196 has been issued to it. It was submitted by learned counsel for respondents No.2 to 4 that without insisting for deposit of the penalty amount, the appeal shall be heard and decided on merit in accordance with law only on the deposit of the aforesaid disputed tax amount.

5. In view thereof, learned counsel for the parties are agreed that the present petition has been rendered infructuous and may be disposed of as such.

6. Ordered accordingly.

(AJAY KUMAR MITTAL)
JUDGE

(RAMENDRA JAIN)
JUDGE

February 14, 2017
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Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No