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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.18087 of 2018 (O&M)
Date of Decision: 24.07.2018

M/s Delton Cables Limited

...... Petitioner

versus

The State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jagmohan Bansal, Advocate
for the petitioner.

RAJESH BINDAL J.

The petitioner has approached this Court seeking to impugn clause 7 of the Policy dated 16.12.1992 (for short 'the Scheme') notified by the Industries Department of the State providing for conversion of deferred sales tax into interest free loan.

The petitioner herein set up an Industrial Unit. Eligibility certificate was issued in its favour, which was valid from 31.12.1996 to 30.12.2005. The total amount of eligibility was ₹ 300.84 lakhs. The petitioner availed of the benefit as per the Scheme. The amount of interest free loan was to be repaid after five years. In the case in hand, admittedly there was default in repayment of the amount which ranges from 01 month to 73 months of the amount due for different periods. Interest was calculated in terms of the rates provided under the Haryana General Sales Tax Act, 1973 and demand was raised which was sought to be recovered.

The total amount of demand raised from the petitioner on account of interest on delayed payment of interest free loan is to the tune of ₹ 1,19,51,100/-, out of ₹ 30,00,000/- has been paid and the balance is ₹ 89,51,100/-. To avoid the liability to pay the interest, challenge is sought to be made to Clause of the Scheme which provides that in case of default of repayment of loan, interest/penalty is chargeable as per the provisions of the Haryana General Sales Tax Rules, 1975 framed thereunder. In case of default, the amount of loan is recoverable as arrears of land revenue.

Relevant clause of the policy is reproduced hereunder:-

> "7. **Power to Recover the Loan**:-
>
> General Manager of the District Industries Centre of the concerned district will be fully empowered to recover the loan in the case of default as arrears of land revenue under the provision of the Haryana Public Money Recovery Act. In cases of any default or delay in repayment of loan, interest/penalty will be charged as provided under the Haryana General Sales Tax and the Rules made thereunder. However, for proceeding under the Act *ibid*, a show cause notice and personal hearing will be granted to the industrial unit."

A perusal of the aforesaid clause in the Policy under which the petitioner had taken the benefit, clearly provided that in case of default or delay in repayment of interest free loan, interest will be payable as per the provisions of the Haryana General Sales Tax Act, 1973. After availing the benefit under the same policy, it is too late to raise a plea that one of the clause in policy is ultravires. Once admittedly the petitioner had defaulted in repayment of the installments of the interest free loan, advanced for payment of sales tax, he shall be liable to pay interest for the defaulted period as otherwise the clause in the policy providing for payment of interest free loan will become meaningless, with no period for payment.

Prayer made up by the petitioner that the rate of interest be reduced from 18% per annum to 9% per annum is also clearly misconceived as the terms of the policy provide the rate of interest as provided for under the Act. Hence, no question of reduction of rate of interest is made out as the petitioner will be bound by all the terms of the policy.

The writ petition stands dismissed.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

24.07.2018
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No