IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-29005-2017
Decided on: 11.12.2018

M/s. Tanish Steels .... Petitioner

Versus

State of Punjab and another ..... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Chetan Jain, Advocate for
Mr. Jagmohan Bansal, Advocate
for the petitioner (in CWP Nos.29005 of 2017 and 2594 of 2018).

Mr. Sandeep Goyal, Advocate
for the petitioner in CWP No.7861 of 2018.

Mr. Punkaj Gupta, Addl. A.G., Punjab.

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AJAY KUMAR MITTAL, J (ORAL)

This order shall dispose of CWP Nos. 29005 of 2017, 2594 and 7861 of 2018, as according to the learned counsel for the parties, the issue involved in these petitions is identical. However, the facts are being extracted from CWP No.29005 of 2017.

2 Prayer in this writ petition under Articles 226/227 of the Constitution of India, is for quashing of penalty order dated 04.10.2017 (Annexure P-8), passed by respondent No.2.

3. The petitioner is engaged in fabrication and trading of different iron and steel products. The petitioner is aggrieved by the order of penalty dated 04.10.2017 (Annexure P-8) passed by State Tax Officer-respondent No.2.

4. The primary grievance of the petitioner in the writ petition is to the penalty order dated 04.10.2017 (Annexure P-8) passed by the State Tax Officer-respondent No.2 imposing penalty equal to 200% of the tax. On 19.12.2017, it was recorded that according to the learned counsel for the petitioner though the penalty order dated 04.10.2017 (Annexure P-8) passed by respondent No.2 was an appealable order, however, since no Appellate Authority had been constituted so far, therefore, the petition was being filed.

5. Upon notice of motion having been issued, reply on behalf of the State has been filed. A copy of the notification dated 15.02.2018 has been produced in Court today which is taken on record. According to the said notification, Additional Commissioner (Appeals) has been appointed to perform the functions as an Appellate Authority under Section 107 of the Punjab Goods and Service Tax Act, 2017 and rule 109A of the Punjab Goods and Service Tax Rules, 2017.

6. The said notification reads as thus:-

> "In exercise of the power conferred by Section 3 and Section 4 of the Punjab Goods and Service Tax Act, 2017 (Punjab Act No.5 of 2017) read with rule 109A of the Punjab Goods and Service Tax Rules, 2017, and all powers enabling him in this behalf, the Government of Punjab, is pleased to appoint Smt. Parneet Shergill, PCS, Additional Excise and Taxation Commissioner (Administration), Punjab as Additional Commissioner (Appeals) to perform the function as an Appellate Authority under Section 107 of the Punjab Goods and Service Tax Act, 2017 and

rule 109A of the Punjab Goods and Service Tax Rules, 2017.

M.P. Singh
Financial Commissioner (Taxation) &
Additional Chief Secretary to
Government of Punjab
Department of Excise and Taxation."

7. In view of the above, we dispose of the writ petitions by relegating the petitioners to take recourse to the remedy of appeal before the Appellate Authority, in accordance with law.

8. However, in view of the fact that the proceedings were pending before this Court, it is clarified that in case the petitioners file appeals within 30 days from the date of receipt of certified copy of this order, the same shall not be dismissed on the ground of limitation by the Appellate Authority.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

11.12.2018
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No