

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.7954 of 2016 (O&M)
Date of Decision: 18.07.2018

M/s Semi Conductor Laboratory

..... Petitioner

versus

The State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Vivek Singla, Advocate
for the petitioner.

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

Mr. Kannan Malik, Advocate
for respondent No.5.

RAJESH BINDAL J.

On 12.12.2017, this Court had passed the following order:-

“Prayer made in the present writ petition filed under Articles 226/227 of the Constitution of India is to issue a writ of mandamus directing the respondents to refund the 50% of the Octroi already paid by the petitioner from 16.09.1991 till 15.09.1997.

Learned counsel representing respondent Nos.1 to 4 did not dispute that the amount of refund as claimed in the petition is payable. However, it was stated that there is some doubt regarding as to who is liable to pay i.e. whether the amount of refund is payable by respondent No.2 i.e. Department of Industries, Government of Punjab or by respondent No.3 i.e. Department of Local Government, Government of Punjab.

After hearing the learned counsel for the parties, we find that the refund as claimed by the petitioner is in respect of Octroi, which was paid by it for the period 16.09.1991 till 15.09.1997. It could not be disputed that the Octroi which is collected, goes to the Department of Local Government/respondent No.3.

Accordingly, it is directed that respondent No.3/Secretary, Department of Local Government, Government of Punjab shall ensure that the payment of 50% of the Octroi, already paid by the petitioner from 16.09.1991 till 15.09.1997 is cleared within two weeks.

It is, however, clarified that in case the said payment is not cleared, respondent No.3/Secretary, Department of Local Government, Government of Punjab, shall remain present in person in the Court on the next date of hearing.

Adjourned to 12.01.2018.”

A perusal of the aforesaid order shows that learned counsel for the State did not dispute the fact that the refund of the amount claimed by the petitioner is admissible. The only dispute is which of the department has to pay the amount, namely, either the Department of Industries or Department of Local Government, Government of Punjab.

As the fact that the petitioner is entitled to refund of the amount is not in dispute and the dispute only pertains to the issue as to which of the Department is to pay the amount and the issue could not be resolved even when the Secretary of Department of Local Government was summoned to appear in person in Court.

Keeping in view the aforesaid circumstances, we direct the Department of Local Government, Government of Punjab to pay the amount due to the petitioner within a period of three months. Thereafter, if there is any dispute as to which of the Department is to pay the amount, the Government may resolve the same as on that account the petitioner cannot be made to suffer.

The writ petition stands disposed of accordingly.

(RAJESH BINDAL)
JUDGE

(ANIL KSHETARPAL)
JUDGE

18.07.2018
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No