IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-6994-2018
Decided on: 10.12.2018

M/s Jai Bhagwati Trading Company .... Petitioner

Versus

The State of Haryana and others ..... Respondents

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

Present: Mr. Sandeep Goyal, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

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AJAY KUMAR MITTAL, J (ORAL)

This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the orders dated 11.11.2014 (Annexure P-2) and 11.04.2017 (Annexure P-4) passed by respondents No.1 and 4 respectively.

2. Learned counsel for the petitioner submitted that under Section 33(5) of the Haryana Value Added Tax Act, 2003 (in short 'HVAT'), the assessee could prefer an appeal with the appellate authority, which was required to be filed within sixty days from the date of the order appealed against. The condition prescribed for filing of appeal is that before entertaining the appeal, the appellate authority shall ensure that the appellant-assessee has paid the amount of tax admitted to be due and interest thereon, and a bank guarantee or adequate security to the satisfaction of the assessing authority for the disputed amount has also been furnished.

3. Section 33(5) of the HVAT Act is reproduced here:-

> "No appeal preferred by an assessee to an appellate authority shall be entertain unless it is filed within sixty days from the date of the order appealed against. The appellate authority shall ensure before

> entertaining the appeal that the appellant has paid the amount of tax to be due and interest thereon, and a bank guarantee or adequate security to the satisfaction of the assessing authority, in the manner, as may be prescribed, for the amount in dispute has also been furnished".

4. Learned counsel for the petitioner further submitted that petitioner is prepared to furnish adequate security to the satisfaction of the assessing authority for the disputed amount. However, one month time was sought to do the needful. Accordingly, prayer was made for setting aside the order dated 11.04.2017 (Annexure P-4) and to remit the matter to the Tribunal to hear the same on merits, in accordance with law.

5. In view of the above, we dispose of the writ petition by setting aside the order dated 11.04.2017 (Annexure P-4), provided the petitioner furnishes the adequate security of the disputed amount to the assessing authority on or before 15.01.2019. It is, however, clarified that in case the petitioner fails to furnish such security, within the prescribed period, the writ petition shall be deemed to have been dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

10.12.2018
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No