IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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RSA No.3819 of 2013 (O&M)
Date of decision: 22.05.2018

Atul Kumar ...... **Appellant**

Versus

Haryana State and another ...... **Respondents**

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Aman Bahri, Advocate
for the appellant.

Mr. Saurabh Girdhar, AAG, Haryana.

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ANIL KSHETARPAL, J. (ORAL)

Plaintiff-appellant is in the regular second appeal against the concurrent finding of fact arrived at by the Courts below while dismissing the suit for recovery of Rs.2,06,225/- along with interest.

Grievance of the appellant is that his vehicle was challaned by the officials of the Excise and Taxation Department on 18.07.2003 on the ground that the tax as required under the Punjab Passengers and Goods Taxation Act, 1952 has not been deposited but even after deposited of the tax, the vehicle was not released. The appellant deposited the tax on 14.08.2003. He claims that on that day, the vehicle should have been released. However, the officials-respondents claim that at that time, the proceedings for imposition of the penalty were pending and subsequently, an order was passed imposing penalty of Rs.9900/- on 20.01.2004. The appellant deposited the aforesaid amount also on 17.02.2004 after adjusting the already amount paid. Still, the vehicle was not released.

An application under Order 41 Rule 27 has been filed, to produce in additional evidence, the order passed by the Revisional Court and thereafter order passed by the Writ Court remanded the matter back and ultimate order passed by Excise and Taxation Commissioner.

Keeping in view that these orders would be relevant, therefore, this Court is of the considered opinion that the application for additional evidence deserves to be allowed and the learned trial Court should have the benefit of examining the orders which were not produced before it earlier.

The orders which have been noticed above, would help the Court in adjudicating the dispute. Since the application for additional evidence is being allowed and hence, the State is also required to be given opportunity to lead counter evidence. Therefore, it is considered appropriate to remit the matter back to the learned trial Court to decide the suit afresh. Hence, the judgments passed by the Courts below are set aside. The learned trial Court would permit the respondent-State to lead counter evidence to the additional evidence which has been allowed and thereafter, re-decide the suit.

The appeal is disposed of.

(ANIL KSHETARPAL)
JUDGE

22.05.2018
Dinesh Bansal

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No