IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP No. 165 of 2018
Date of decision: 20.09.2018

M/s P.K. International **...Appellant**

Vs.

State of Haryana and Another **...Respondents**

<u>VATAP No. 166 of 2018</u>

M/s Jute Pack India **...Appellant**

Vs.

State of Haryana and Another **...Respondents**

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

Present: Mr. Rajiv Sharma, Advocate
for the appellant.

Ms. Mamta Singla Talwar, DAG, Haryana.

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<u>RAJESH BINDAL, J. (ORAL)</u>

This order will dispose of two appeals bearing No. 165 and 166 of 2018, impugning the order passed by the Tribunal whereby appeals have been dismissed on the ground that pre-condition regarding furnishing adequate security or bank guarantee for the disputed amount, was not complied with.

Learned counsel for the appellant submitted that only reason for non-compliance of pre-condition of furnishing adequate security/bank guarantee was that the same was not communicated by counsel for the appellant, otherwise the appellant was and is ready to comply with the conditions. He further prays that in case an opportunity is granted to the appellant to comply with the order, he will do the needful and thereafter the appeal be heard on merits.

Learned counsel for the respondents submitted that once pre-condition was not complied with, the only consequence was rejection of appeal by the Tribunal and as such, there is no error in the order passed by the Tribunal.

After hearing learned counsel for the parties and considering the fact that amount of tax which was admitted to be due by the appellant was already deposited and in terms of provisions of Section 33 (5) of the Haryana Value Added Tax Act, 2003 the balance amount was to be secured either by furnishing adequate security or bank guarantee. The submission of learned counsel for the appellant was that needful could not be done as the appellant was not communicated the requirement by his counsel. He undertakes to do the needful.

In our view, one opportunity deserves to be granted to the appellant to comply with the conditions laid down under Section 33(5) of the Haryana Value Added Tax Act, 2003, so as to enable him to argue the appeal on merits as cause shown for non-compliance seems to be reasonable.

Order passed by the Tribunal is set aside. Let the needful be done within three weeks. In case the appellant complies with the conditions as laid down in Section 33 (5) of the Haryana Value Added Tax Act, 2003, the Tribunal shall hear the appeal on merits.

However, it is made clear that on failure to comply with the pre-conditions, the present VAT appeal shall be deemed to be dismissed.

Disposed of.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

September 20, 2018
Poonam (II)

Whether speaking/ reasoned Yes/No

Whether Reportable Yes/No