

217 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.20040 of 2018
Date of decision : 24.01.2019**

Raj Kumar Goyal and another

.....Petitioners

vs.

State of Haryana and others

....Respondents

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA**

Present: Mr.Atul Lakhanpal, Sr. Advocate with
 Mr. Arvind Pal Singh, Advocate for the petitioners.

Mr.Ankur Mittal, Addl.AG, Haryana.

Mr.Deepak Sabherwal, Advocate
for respondents No. 2 and 3.

MAHESH GROVER, J. (ORAL)

Written statement filed on behalf of respondents No. 2 and 3 in Court today, is taken on record. Copy given to learned counsel for the petitioners.

This is a writ petition filed by the petitioners praying for quashing of order dated 10.01.2018(Annexure P-20) declining intervention in the revision petition.

The petitioners were allotted a shop-cum-office in the year 1989 but was resumed due to non-payment of dues. This order was set aside by the Hon'ble Supreme Court in SLP No. 12085 of 2004 decided on 09.07.2007 holding that HUDA was entitled to charge compound interest at the rate of 10% p.a. from the petitioners. Despite this direction the respondent-HUDA never calculated the amount due from the petitioners till

the year 2015. The petitioners in turn had made several representations to the respondents urging therein to inform them of the amount due so that they could satisfy the demand. No response emanated from the office of the respondents and the petitioners themselves deposited an amount of Rs. 30 lakhs on 31.08.2009.

The aforesaid facts are not disputed.

It is in 2015 that the respondents calculated the amount due from the petitioners along with compound interest at the rate of 10% p.a. to raise a demand of Rs. 48, 94,000/- which was objected to by the petitioner finally resulting in the impugned order where revision was dismissed. However, this amount was also deposited by the petitioners under protest on 06.12.2016.

So what was agitated before the authorities below was recalculation and adjustment of the amount where the petitioners denied liability to pay any interest after 2007 for the reason that the demand was never communicated to them and it is only in 2009 that the petitioners deposited the amount on their own. Besides the amount of Rs. 48,94,000/- demanded in the year 2015 was also deposited in 2016 which would liberate the petitioners from any liability whatsoever, but for the adjustment which the petitioners seek on account of the earlier default by the respondents for not communicating the amount to them.

Since the default in not communicating the demand to the petitioners is conceded, we are of the opinion that the grievance of the petitioners is not misplaced. After the directions of the Hon'ble Supreme Court it was the duty of the respondents to act with promptitude and communicate the demand to the petitioners after calculating it along with

interest as mandated. Instead they slept over it despite the representations made by the petitioners who, on their own, deposited the amount of Rs. 30 lakhs in 2009. Even after this deposit the respondents slept over the matter and finally communicated a demand on 06.11.2015. No explanation has come forward for this inordinate delay. The petitioners' conduct on the other hand is that of bona fide persons who on their own deposited Rs. 30 lakhs and even deposited the revised demand of Rs. 48,94,000/-when demanded though under protest.

Since there has been a complete unjustifiable lapse on the part of the respondents the petitioners cannot be penalised for this demand. They are not entitled to pay compound interest at the rate of 10% p.a. for no fault of theirs. We would, however, give some benefit of period to the respondents on account of procedures. The order of the Hon'ble Supreme Court was passed on 09.07.2007. Therefore, five months time should be a reasonable period, the benefit of which can be given to the respondents but from January, 2008 they would have no occasion to demand interest from the petitioners. The respondents are, therefore, obliged to recalculate the amount in the light of above and refund the amounts which have been unjustifiably demanded and charged from the petitioners.

The writ petition is allowed.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

24.01.2019
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No