

CWP No. 29553 of 2019

DECIDED ON: OCTOBER 10, 2019

M/S JAIPRAKASH ASSOCIATES LTD.

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.
HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI.**

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Rohit Gupta, Advocate and
Mr. Amar Pratap Singh, Advocate
for the petitioner.

AVNEESH JHINGAN, J (ORAL)

The grievance in the present writ petition is that in spite of pendency of stay application as well as appeal before the Principal Secretary, Department of Industries and Commerce, Haryana recovery is being effected in pursuance of recovery notice dated 25.09.2019.

The dispute is with regard to the interest being charged on Interest Free Loan given under Industrial Policy, 2005, alleging violation of terms and conditions.

Aggrieved of charging of interest the petitioner preferred a writ petition, the same was disposed of relegating petitioner to alternative remedy. An appeal alongwith the stay application was filed on 13.09.2019. Thereafter, recovery notice dated 25.09.2019 was issued.

The contention raised by learned counsel for the petitioner is that

during the pendency of stay application, recovery proceedings are being initiated which will render the stay application infructuous.

There is no dispute on the proposition that in case a stay application is pending, the same is to be decided either way and should not be allowed to be rendered infructuous with the passage of time and by making a recovery in the meanwhile.

However, in the present case, recovery certificate and the demand notice are dated 15.03.2019 and 20.07.2019 respectively. The recovery notice was issued on 25.09.2019. There is nothing on record to show that the petitioner had approached the Appellate Authority pointing out the said fact i.e. during the pendency of stay application recovery is being made. Further, there is no evidence that any representation was moved to the recovering authority that the stay application and appeal are pending.

In such circumstances, no ground is made out for interfere in the writ petition. However, there is no doubt in case the petitioner approaches the appellate authority regarding deciding stay application, the authority would consider the same expeditiously and in accordance with law.

Disposed of.

OCTOBER 10, 2019
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(AVNEESH JHINGAN)
JUDGE

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***