IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 3182 of 2002
Date of decision: 20.2.2020

Union of India

.. Petitioner

v.

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Piyush Khanna, Advocate for the petitioner.

Ms. Mamta S. Talwar, Deputy Advocate General, Haryana.-

...

AVNEESH JHINGAN, J.

This order shall dispose of C.W.P. Nos. 3182, 4297, 4299, 4319 and 4523 of 2002, as similar issue is involved and are for the assessment years 1996-97, 2000-01, 1998-99, 1997-98 and 1999-2000, respectively.

The grievance raised by Union of India in the present petitions is against the fixing of date of liability to pay tax and the assessment framed under Section 29 of the Haryana General Sales Tax Act, 1973 (for short, 'the Act'). The tax was levied on the Department of Posts on the ground that the petitioner while getting the works contract executed through contractor supplied material and it amounted to sale. In appeals filed, the Appellate Authority while dealing with the condition of pre-deposit under the proviso to Section 39(5) of the Act, appeals were entertained subject to furnishing of bank guarantee. As the same was not furnished, the appeals were dismissed.

There is no dispute on the fact that the entire demand created is disputed.

The Appellate Authority under the proviso to Section 39(5) had power to waive the condition of pre-deposit and the same was done in the present case, however to secure the revenue bank guarantee was ordered to be furnished. Considering the fact that the petitioner is a department of Union of India, no useful purpose would be served by furnishing the bank guarantee. The writ petitions are allowed. The Appellate Authority is directed to hear the appeals on merits without any pre-condition.

(AVNEESH JHINGAN)
JUDGE

(AJAY TEWARI)
JUDGE

20.2.2020
mk

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No