HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-7643-2021
Date of decision: 06.04.2021

M/s. DCM Engineering Products ....Petitioner

V/s.

State of Punjab and others .....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Amrinder Singh, Advocate for the petitioner.

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Ritu Bahri, J. (Oral)

By this petition, the petitioner-company is seeking quashing of assessment order dated 02.11.2020 (Annexure P-4) passed by respondent No.2 for the assessment year 2013-14.

Learned counsel for the petitioner submits that vide assessment order dated 02.11.2020 (Annexure P-4), additional demand of ₹1,22,64,728/- (at page 38 of the paper-book) was made as per Punjab VAT Act, 2005 read with Section 9(2) of CST Act, 1956. He further refers to the balance sheet (Annexure P-7) of the petitioner-company to contend that during the financial years 2017, 2018, 2019 and 2020, the company has suffered losses to the extent of ₹205 crores.

Aggrieved with the aforesaid order, the petitioner filed an appeal under Section 62 of the Punjab VAT Act, 2005 (Annexure P-5). However, appeal is entertained on merits only if 25% of the additional amount is deposited by the petitioner. He further contends that before the appellate Court, it will be difficult for the petitioner-company to deposit 25% as pre-deposit of the additional amount of ₹1,22,64,728/-.

Learned counsel for the petitioner refers to judgment passed by this Court in ***CWP-17975-2020*** titled ***M/s. Kelmar (India) Exports V/s. State of Punjab and others*** (Annexure P-9) to contend that by exercising the inherent powers under Section 226 of the Constitution of India, the High Court can waive off the condition of 25% pre-deposit for hearing the appeal on merits.

Notice of motion.

Mr. Gaurav Garg Dhuriwala, Deputy Advocate General, Punjab accepts notice on behalf of the official respondents.

Keeping in view the judgment passed by this Court in ***M/s. Kelmar (India) Exports's case (supra)*** and the fact that the State cannot dispute the losses suffered by the petitioner-company, which have been reflected in the balance sheet (Annexure P-7), this petition is being disposed of by giving direction to the appellate Court to accept 10% of the additional amount of ₹1,22,64,728/- as assessed vide assessment order dated 02.11.2020 (Annexure P-4) and decide the appeal in accordance with law within a period of four weeks thereafter.

(RITU BAHRI)
JUDGE

06.04.2021 **(ARCHANA PURI)**
Divyanshi **JUDGE**

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