IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

108 **CWP-13487-2021(O&M)**
Decided on 26.07.2021

Dakshin Haryana Bijli Vitran Nigam
....Petitioner

VS

Union of India and others ....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. K.L. Goyal, Sr. Advocate with
Mr. Navdeep Monga, Advocate
for the petitioner.

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AJAY TEWARI, J.(Oral)

1. This writ petition has been filed under Articles 226/227 of the Constitution of India for quashing of notice dated 17.05.2021 (Annexure P-7) issued under Section 79 of the Act by respondent No.2 to the petitioner's Bank (respondent No.4) asking them to make the payment of Rs. 1,27,58,375/- withheld by it in respect of petitioner, failing which, the respondent No.4 would be deemed to be a defaulter despite the fact that there was automatic stay of recovery during the pendency of the appeal and the period of three months was not yet expired as on the date of notice for recovery of amount.

2. Learned senior counsel for the petitioner has argued that the petitioner has challenged the recovery proceedings and therefore no notice can be issued to the petitioner's bank i.e. respondent No.4.

3. Notice of motion.

4. On the asking of the Court, Mr. Tajender Joshi, Senior Standing Counsel and Mr. Rishabh Kapoor, Senior Standing Counsel appear and accept notice on behalf of respondents No.1 to 3. They are not in a position to deny

the applicability of Section 107(7) of the Central GST Act/Haryana, 2017. It is also not disputed that the appeal is pending.

5. In these circumstances, there is no warrant for initiating recovery proceedings. Consequently, the petition is allowed and it is directed that the appellate Authority would decide the appeal and only thereafter the issue of whether any amount is due or not would be said to be crystallized.

6. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(VIKAS BAHL)
JUDGE

26.7.2021
anuradha

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No