

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 15296 of 2020
Date of Decision:-16.12.2021

Apex Fibre India Limited

..... Petitioner

Vs.

Central Board of Direct Taxes and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Radhika Suri, Senior Advocate with
Mr. M.S. Kanda, Advocate
for the petitioner.

Mr. Vivek Sethi, Senior Standing Counsel
for the respondents.

AJAY TEWARI, J.

By this petition, the petitioner has challenged the action of the Assessing Officer in recovering the entire tax demanded, which as per the petitioner is on the illegal premise that the petitioner had consented for the same.

2. It is not disputed that the petitioner has also filed an appeal against this assessment before the Appellate Authority.

3. We put it to the learned Senior Counsel, was this grievance could not be racked up before the Appellate Authority. She has pointed out that application for stay was illegally rejected and therefore now, the Appellate Authority cannot order its refund, till the main appeal is taken up, and that too, only if the appeal is allowed. Her grievance is that the appeal is not going to be taken up and therefore this illegal action should be quashed by this Court and the amount over and above that amount

which had to be deposited for entertainment of appeal should be immediately refunded.

4. In the peculiar facts and circumstances of this case, it would be appropriate to direct the Appellate Authority to take the present case out of turn and decide the same.

5. Consequently, this writ petition is disposed of with a direction to the Appellate Authority to decide the appeal in accordance with law, within a period of one month, from the date of receipt of certified copy of this order.

6. Parties through counsel are directed to appear before the Appellate Authority on 23.12.2021, or on any other date on which the Appellate Authority may require their presence.

7. Petition stands disposed of in above terms.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

16.12.2021

Dinesh

Whether speaking/reasoned Yes/No

Whether reportable Yes/No