IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-11684-2022 (O&M)
Date of Decision:18.10.2022

Shri Shashikant Shravan Dhamne Liquidator for M/s SCA Hygiene Products India Pvt. Ltd.

.......Petitioner

Versus

State of Haryana and others

......Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present:- Mr. Amar Pratap Singh, Advocate for the petitioner.

Ms. Shruti Jain Goel, DAG, Haryana.

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<u>TEJINDER SINGH DHINDSA J.(Oral)</u>

Pleadings on record would indicate that M/s SCA Hygiene Products India Pvt. Ltd. already stand liquidated in terms of order dated 24.12.2020 passed by the NCLT, Mumbai.

Instant writ petition is at the hands of the liquidator.

Challenge herein is to the assessment order dated 07.03.2019 (Annexure P2) passed by the 3rd respondent i.e. The Excise & Taxation Officer, Sonepat, creating additional demands under the Haryana Value Added Tax Act 2003 as also under the Central Sales Tax Act 1956 pertaining to the assessment year 2015-16.

Apparently, two appeals had been filed under Section 33 of the Haryana Value Added Tax Act 2003 as also under Section 9 (2) of the Central Sales Tax Act 1996 assailing the assessment order dated 07.03.2019. Both the appeals stand clubbed and have been dismissed vide order dated 25.08.2021 passed by the Joint Excise and Taxation

Commissioner (Appeal) Rohtak, on the short ground of non-compliance of the mandate of Section 33 (5) of the Haryana Value Added Tax Act, 2003 as adequate security to the satisfaction of the Assessing Authority for the disputed demand(s) had not been furnished. Such order passed by the Appellate Authority dated 25.08.2021 at Annexure P-1 is also a subject matter of challenge in the instant petition.

For reasons recorded hereinafter, there would be no occasion for this Court to examine the legality and validity of the assessment order(s) dated 07.03.2019 (Annexure P-2) that had been passed by the Excise & Taxation Officer-cum-Assessing Authority.

Such view is being taken for the reason that counsel for the petitioner makes a statement that the liquidator is now ready and willing to furnish the bank guarantee towards compliance of Section 33 (5) of the Haryana VAT Act 2003 so as to facilitate a decision on the appeals that had been filed on merits.

Mr. Shruti Jain Goel, DAG, Haryana, makes a statement that in case the official liquidator were to furnish a bank guarantee towards compliance of Section 33(5) of the Haryana Value Added Tax Act 2003 and to the satisfaction of the competent authority, the appeals filed against the assessment order(s) dated 07.03.2019 would be taken up and adjudicated upon in accordance with law and on merits.

In the light of such development the impugned order dated 25.08.2021 (Annexure P-1) passed by the Appellate Authority is set aside.

In the light of the statement made by learned State counsel, matter is remanded back to the Appellate Authority to consider the appeals preferred on behalf of the petitioner against the assessment order(s) dated 07.03.2019 on merits subject to the rider that the official liquidator would furnish a bank guarantee to the satisfaction of the Assessing Authority towards compliance of the mandate of Section 33(5) of the Haryana Value Added Tax Act 2003.

Writ petition is disposed of.

It is clarified that we have not examined the assessment order(s) dated 07.03.2019 at Annexure P-2 on merits.

(TEJINDER SINGH DHINDSA)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

18.10.2022
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No