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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

VATAP-341-2019(O&M)
Date of Decision:28.07.2022

M/s S.K. Industries .... **Appellant**

versus

The State of Punjab and others ..... **Respondents**

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE PANKAJ JAIN

***

Present: Mr.Aman Bansal, Advocate for the appellant.

Ms. Sudeepti Sharma, Addl. AG, Punjab.

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TEJINDER SINGH DHINDSA, J. (ORAL)

Instant appeal under Section 68 of the Punjab VAT Act, 2005 is directed against the order dated 04.07.2019 (Annexure A-3) passed by the Punjab VAT Tribunal in Appeal No. 461 of 2017 (assessment year 2007-08). The impugned order reads as follows:-

" M/s Shri Krishna Industries, Faridkot Versus The State of Punjab

"The Appellant having not exported 25% of product out of India has been held to be not entitled from tax exemption.

Counsel says that prima facie such export of non basmati rice is not permitted as the appellant does not deal with Basmati. The appellant did not deposit 25% of additional demand before first appellate court.

Heard in the light of PSPC Ltd. vs. State of Pb (2016) 90 VST 66 (P&H). Appellant has arguable point before appellate court. In the interest of justice it is ordered that 12½ % of additional demand be deposited in 3 months and appeal be heard and decided on merits by 1st appellate court. Appeal partly allowed. Disposed of."

Sd/-

04.07.2019 *Chairman, VATT"*

Mr.Aman Bansal, counsel for the appellant-firm at the very outset makes a submission that the deposit of 12½ % of the additional demand in the light of the impugned order dated 04.07.2019 was not feasible on account of certain financial constraints. He submits that the appellant-firm is now ready and willing to deposit the mandatory deposit of 25% forthwith and directions be issued for the appeal to be decided on merits.

Issue notice of motion on such limited prayer.

Ms. Sudeepti Sharma, Addl. A.G., Punjab accepts notice and waives service.

In view of the limited prayer and submissions advanced by counsel, we are of the considered view that there is no requirement of eliciting a written response to the instant appeal.

In view of the above and by taking consent of counsel for the parties, the instant appeal is taken up for disposal today itself.

Undoubtedly, the appellant has been agitating the matter. After passing of the order dated 04.07.2019, appellant had filed the instant appeal in the month of August, 2019. Appellant is now ready and willing to deposit the mandatory pre-deposit of 25% of the additional demand so as to facilitate a decision on his appeal on merits.

We are further of the view that in such matters, rather than an appeal being scuttled on technicalities, the same ought to be decided on merits.

In view of the above, the instant appeal is partly allowed. The order dated 04.07.2019 at Annexure A-3 is modified to the extent that in case the appellant-firm makes a deposit of 25% of the additional demand within a period of 10 days from today, the appeal would be taken up and decided on merits expeditiously and in any case within a period of one year from today.

Appeal stands disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

(PANKAJ JAIN)
JUDGE

28.07.2022
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No