IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

VATAP-1-2020 (O&M)
Date of decision: 16.05.2022

M/s. Durga 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. A.G., Punjab.

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TEJINDER SINGH DHINDSA, J. (ORAL)

Instant appeal under Section 68 of the Punjab VAT Act, 2005 is against the impugned order dated 02.07.2019 (Annexure A-3) passed by the Punjab VAT Tribunal in Appeal No.456 of 2017.

The impugned order dated 02.07.2019 otherwise reads as follows:-

> "Heard at length in the light of Judgment PSPCL V/s State of Pb (2016) 53 PHT 258. Plea of limitation raised shows that appeal before DETC has arguable points.
>
> Let appeal be heard on deposit of 12½ % of the additional demand in on month. Appeal to be decided on merits within 6 months after deposit. Disposed of as partly Allowed."
>
> sd/-
>
> 02.07.2019 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 02.07.2019 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 02.07.2019, which otherwise had been received on 18.07.2019, appellant had filed the instant appeal in the month of September 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 02.07.2019 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 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

16.05.2022
Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No