IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

113+250 **CWP No.1626 of 2022 (O&M)**
Date of Decision: 08.05.2023

M/s Rahon Road Textiles Association (SPV) ..... **Petitioner**

Versus

Union of India & Anr. ..... **Respondents**

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE GURBIR SINGH

Present: Ms. Shivya Sehgal, Advocate for the petitioners.

Mr. Arvind Seth, Advocate for the respondents.

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G.S. SANDHAWALIA, *J (ORAL)*

The challenge is to the demand notice dated 12.08.2021 (Annexure P-8) wherein directions were issued to make refund of the Government fund by way of demand draft. The challenge was also raised to the notice dated 10.12.2021 (Annexure P-14), wherein the balance amount of Rs.1,29,74,751.24/- which is stated to be pending had been sought to be claimed by the Regional Office of the Textile Commission, along with the communication dated 19.01.2022 (Annexure P-17) wherein recovery was sought to be made under the State Recovery Act. On 01.02.2022, the following order was passed:-

> *'Notice of motion for 26.04.2022. Prima facie, the action of respondent No.2 in proposing to recover ₹ 1,29,74,751.24 paise vide order dt. 10.12.2021 (P-14) pursuant to the decision dt.12.08.2021 (P-8) of respondent No.2 appears to be contrary to Clause 9(c) read with Clause 6(k) of the Guidelines of the Yarn Bank Scheme which permit any such recovery only after expiry of period of 3 years from the date of last release*

of the share of the Union of India. In the instant case, letter dt. 01.01.2019 (P-4) indicates that share of Union of India was released after 01.01.2019 to the petitioner. So, the order (P-8) could not have been passed on 12.08.2021 before the expiry of 3 years' period. Therefore, there shall be stay on recovery of ₹ 1,29,74,751.24 paise from the petitioner until further orders. '

2. Thus, the case of the petitioner was that the period of three years has to be counted from the date of last release of the share i.e. 01.01.2019 (Annexure P-4), whereas as per the written statement filed admittedly the last release of the Government of India share was 27.02.2019. It is, thus, apparent that claim as such prior to three years was not justifiable, before Feb, 2022.

3. In such circumstances, we are of the considered opinion that the orders dated 12.08.2021 (Annexure P-8), dated 10.12.2021 (Annexure P-14) and dated 19.01.2022 (Annexure P-17) could not have been passed at that point of time and necessarily relief will have to be granted by quashing the same. Ordered accordingly.

4. However, since the period of three years has now expired on 26.02.2022, it is open to the respondents to pass a fresh order in accordance with law.

5. The writ petition is accordingly disposed of.

(G.S. SANDHAWALIA)
JUDGE

(GURBIR SINGH)
JUDGE

08.05.2023
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Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO