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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision:24.11.2023

1. CWP No.2532 of 2023

M/s Gopal Garden, Faridbad ......Petitioner

Vs

State of Haryana and others .....Respondents

2. CWP No.2533 of 2023

M/s Gopal Garden, Faridbad ......Petitioner

Vs

State of Haryana and others .....Respondents

2. CWP No.2537 of 2023

M/s Gopal Garden, Faridbad ......Petitioner

Vs

State of Haryana and others .....Respondents

CORAM:*HON'BLE MR.JUSTICE G.S.SANDHAWALIA*
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. Rajiv Agnihotri, Advocate for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

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G.S.SANDHAWALIA,J.(Oral)

[1]. This judgment shall dispose of three writ petitions i.e. CWP Nos.2532, 2533 and 2537 of 2023 as common questions of law and facts are involved. Facts are being taken from CWP No.2532 of 2023.

[2]. Challenge in the present petition is to an order passed in revision dated 18.10.2022 (Annexure P-10), which upheld the order

dated 16.02.2018, whereby the appeal was dismissed as not maintainable by the Joint Excise and Taxation Commissioner, Faridabad under the provisions of the Haryana Tax on Luxuries Act, 2007 for the assessment year 2013-2014. The appeal has arisen out of order dated 12.08.2016 passed by Excise & Taxation Officer-cum-Assessing Authority, Faridabad, whereby additional demand of Rs.10,35,990/- had been created, comprising of tax of Rs.2,95,997/- and penalty of Rs.7,39,993/- under Section 20.

[3]. It is a case of the petitioner herein that it was argued before the Revisional Authority that the orders were not passed on the stay application, though the appeals were rejected only on account of not maintainability since the pre-deposit has not been made.

[4]. Learned State counsel in the reply has referred to Rules 16 and 17 to submit that the appeals could not be heard in the absence of requirement of proof of payment including interest payable or of penalty or of both.

[5]. Learned counsel for the petitioner submits that he is ready to deposit the payment as per rules, provided that appeal be heard on merits.

[6]. In view of civil rights of the petitioner being affected, we are of the considered opinion that if the petitioner deposits the payment of tax in terms of Rule 16 within four weeks, then the orders impugned dated 16.02.2018 and 18.10.2022 will be deemed to be set

aside and the appeal will be considered on merits by the Joint Excise & Taxation Commissioner, Faridabad. In case, the said payments are not made within the prescribed period, then the writ petition will be deemed to be dismissed.

[7]. Disposed of accordingly.

(G.S. SANDHAWALIA)
JUDGE

(LAPITA BANERJI)
JUDGE

24.11.2023
Prince

Whether speaking/reasoned Yes/No

Whether reportable Yes/No