

2023:PHHC:096250-DB

227-3

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-8197-2023 (O&M)

Date of decision: 27.07.2023

**Punjab State Power Corporation Limited
(Previously Punjab State Electricity Board)**

....Petitioner

V/s.

State of Punjab and others

....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

**Present: Mr. Sandeep Goyal, Advocate
for the petitioner.**

Mr. Saurabh Kapoor, Addl.A.G., Punjab.

Ritu Bahri, J. (Oral).

The petitioner-Corporation is seeking quashing of order dated 17.11.2022 (Annexure P-1) passed by respondent No.3 whereby assessment to the tune of Rs.51,88,74,816/- had been framed, order dated 26.12.2022 (Annexure P-3) whereby the appeal filed by the petitioner under Section 62 of the Punjab Value Added Tax Act, 2005 (for short 'PVAT Act') had been dismissed in limine due to non-deposit of 25% of the additional demand created by respondent No.3 and notice dated 22.03.2023 (Annexure P-9) whereby the petitioner was directed to pay the aforementioned amount by way of additional demand.

Learned counsel for the petitioner has placed on record a copy of order dated 28.03.2016 passed under Section 62(5) of the PVAT Act (Annexure P-5) wherein while entertaining the appeals filed by the present petitioner itself, against the assessment orders passed with regard to previous financial years 2006-07, 2007-08, 2008-09, and 2009-10, the respondents, after considering the case of the appellant (petitioner herein) on the point of undue financial hardship, had directed it to deposit 15% of the total additional demand for compliance with the condition of pre-deposit

under Section 62(5) of the PVAT Act. It has not been disputed that the order dated 28.03.2016 (Annexure P-5) has attained finality.

Prayer has been made by the petitioner for reducing pre-deposit of additional demand to 15% by submitting that it is having financial exigencies and has been incurring substantial losses. Learned counsel has also placed reliance upon judgment dated 26.07.2021 passed in *CWP-13508-2021* titled as *Punjab State Power Corporation Limited vs. State of Punjab and others* wherein a Coordinate Bench of this Court had allowed the prayer of the present petitioner to deposit 15% of the demanded amount as a pre-deposit for the purpose of entertaining appeal. The submission made by the petitioner that it is suffering huge financial losses, has not been controverted by the respondents.

Hence, keeping in view the fact that previously also the petitioner has been allowed to file appeals against assessment orders on deposit of 15% of the amount of additional demand, we dispose of this writ petition with direction to the petitioner to deposit 15% of the amount of the additional demand to comply with the condition of pre-deposit as per Section 62(5) of the PVAT Act, within a period of one month from the date of receipt of certified copy of this order. It is made clear that if any payment as pre-deposit has already been made by the petitioner for the purpose of filing appeals against the order dated 17.11.2022 (Annexure P-1), the same shall be adjusted for the purpose of calculation of 15% of the amount of additional demand. The Appellate Authority is further directed to decide the appeal within two months, in accordance with law.

Pending application, if any, stands disposed of.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

27.07.2023

Divyanshi

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No