IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

222 ***2023:PHHC:153265-DB***

CWP-11188-2023
Date of Decision: 01.12.2023

M/s. Raghbir Singh Govt. Contractor .....Petitioner(s)

Versus

Union of India and another ...Respondent(s)

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

Present: Mr. Nitish Bhardwaj, Advocate,
for the petitioner.

Ms. Pridhi Jaswinder Sandhu, Sr. Standing Counsel,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

1. Prayer in the present writ petition filed under Articles 226 and 227 of the Constitution of India is for restoration of the appeal to the original number as the requirement of 10% of tax as pre-deposit has been complied with as per the provisions of Section 107(6) of the Central Goods and Sales Tax Act, 2017 by filing DRC-03 dated 01.05.2023.

2. Apparently, the appeal was dismissed by the Additional Commissioner, Central Goods and Service Tax (Appeal) on 28.02.2023 which had been directed against the order-in-original dated 15.04.2022 passed by the Assistant Commissioner, Central Goods and Service Tax Division, Bhiwani. The deposit, as noticed, is subsequent. The reason was that the appeal was not maintainable in the absence of pre-deposit amount.

3. Keeping in view the fact that the amount of pre-deposit has been deposited, though subsequently, which would also be clear from the reply of the respondents who does not deny this aspect, we are of the considered

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opinion that merely on account of the delay as such for pre-deposit, the petitioner cannot be denied his right to be heard on merits of the case since valuable rights of the petitioner are involved in as much as demand of over Rs.50,00,000/- was raised upon him under the central tax and of Rs.11,00,000/- under the State tax apart from penalty and recovery of interest etc.

4. In such circumstances, we are of the considered opinion that it would be in the interest of justice if the Appellate Authority hears the appeal on merits in view of the said deposit. Accordingly, the order dated 28.02.2023 (Annexure P-4) is set aside and the Appellate Authority is directed to hear the appeal on merits.

5. Writ petition stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

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(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking Yes
Whether reportable No

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