IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16107-2023
Date of decision: 28.07.2023

M/s K.K. Traders

.....Petitioner

Versus

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. Sourabh Goel, Senior Standing Counsel,
for the respondents.

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Ritu Bahri, J.

1. Petitioner is seeking quashing of the order dated 12.04.2023 (Annexure P-13) passed by respondent No.2, whereby appeal (Annexure P-10) filed by the petitioner for the year 2010-2011, has been dismissed on account of non compliance of Section 62 (5) of the Punjab VAT Act, 2005.

2. Learned counsel for the petitioner has referred to the order dated 20.12.2017 (Annexure P-5) passed by this Court in CWP-11842-2016 (**K.K. Traders vs. State of Punjab and others**), whereby petitioner-K.K.Traders had sought strict disciplinary/departmental action against respondent No.6-Rajesh Verma, Excise and Taxation Officer (therein) for the lapses committed by him. As per the said order, enquiries were conducted and show cause notice was issued to the said person and memo was issued to him on 22.09.2017 asking him to submit reply as per the enquiry report dated 13.08.2017 and Rs.5 lakhs deposited by the petitioner was returned

back. While disposing of the said petition, it was observed that the charges were proved against Rajesh Verma-respondent No.6 (therein).

3. Thereafter, appeal filed by the petitioner for the assessment year 2010-2011 was entertained on deposit of amount of Rs.1.5 lakhs, which was 15% of the tax due. Vide order dated 25.05.2017 (Annexure P-6), the Appellate Authority remanded the case to the Assessing Officer for passing a fresh order under the Punjab VAT Act, 2005 after affording proper opportunities to the appellant/assessee. Thereafter, vide order dated 20.08.2018 (Annexure P-7), again assessment order was passed, against which, the petitioner went in appeal. The Appellate Authority, vide order dated 17.12.2018 (Annexure P-8), entertained the appeal without any further deposit and again remanded the matter to the Assessing Officer. The petitioner again appeared before the Assessing Officer and thereafter, fresh order dated 22.03.2022 (Annexure P-9) was passed. Petitioner again challenged the said order by filing an appeal. Now, the Appellate Authority has dismissed the appeal of the petitioner on the ground that 25% of the tax due has not been deposited as per the provisions of Section 62 (5) of the Punjab VAT Act, 2005.

4. Learned counsel for the petitioner contends that the amount of tax remains the same. However, the authorities have increased the penalty and interest. With respect to the tax due, he has already deposited an amount of Rs.1.5 lakhs. He is still ready to deposit the remaining amount to make the pre-deposit to 25% of the tax due.

5. In view of the fact that proceedings in respect of the assessment year 2010-2011 are pending since 2016, the prayer of the petitioner deserves to be accepted.

6. Hence, keeping in view the peculiar circumstances of the case, the

impugned order dated 12.04.2023 (Annexure P-13) is being set aside and the Appellate Authority is directed to accept 25% of the tax due after adjusting the amount already deposited by the petitioner and pass a fresh order on the appeal filed by the petitioner, on merits, expeditiously, within a period of two months from the date of receipt of certified copy of this order.

7. Petition stands disposed of accordingly.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

28.07.2023
ajp

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No