

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-7272-2015

DECIDED ON: 02.12.2023

SIRI KRISHAN

.....PETITIONER

VERSUS

**HARYANA STATE SMALL INDUSTRIES & EXPORT CORPORATION
LTD AND ORS**

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Naveen Daryal, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 02.02.2015 (Annexure P-13).

2. In view of para 9 of the affidavit dated 12.07.2019 submitted by Dr. Yash Garg, Director Industries and Commerce Department, Haryana, wherein specific declaration has been made to the effect that judgment & decree dated 13.11.2009 for recovery against M/s Goyal Enterprises was passed and admittedly, respondent No.2 through respondent No.1 has already recovered the amount and considering the financial position of the judgment debtor and to minimise the loss of the Corporation as full and final settlement i.e., Rs.34,61,952/- against the actual recoverable amount of Rs.86,72,815/-, since the order of punishment dated 03.03.2005 (Annexure R-2) is only inflicting the punishment for recovery of amount to the tune of Rs.28,62,011/-, holding the petitioner responsible for the same

loss and to make good for the same by depositing the amount, as ordered in the order of punishment is totally unwarranted, which would actually result into undue financial advantage and benefit, if the amount is recovered twice on account of the same loss.

3. Learned State counsel has also not disputed the said fact, though made an attempt to defend the stand of the State urging that in fact the actual amount recoverable came to be Rs.86,72,815/- after adding the interest till the date of actual realization made by M/s Goyal Enterprises, in pursuance of the judgment and decree dated 13.11.2009 for the said loss, petitioner needs to be punished for misconduct and negligence.

5. However, a perusal of the order dated 02.02.2015 (Annexure P-13 makes it ample clear and leaves no doubt in the mind of this Court that there is no order of any nature inflicting punishment on account of mis-conduct or negligence, except to make good for loss, which was suffered by the respondent-Corporation by effecting recovery of the same amount, which already stands paid by M/s Goyal Enterprises and in the light of the same, the order dated 02.02.2015 (Annexure P-13) is absolutely arbitrary and illegal as well as violative of the principles of natural justice and, therefore, not sustainable. Hence the same is ordered to be quashed.

6. The amount so deducted shall be released within a period of two months from the date of receipt of the certified copy of this order.

7. The petition is therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

02.12.2023

Meenu

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