IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-2739-2005
Date of decision:- 30.04.2024

M/s Pro Mark Fitness & Leisure Pvt. Ltd. ....Petitioner

vs.

U.T. Chandigarh and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. I.S. Dhaliwal, Advocate with
Mr. Gagandeep Singh, Advocate, for the petitioner.

Mr. L.S. Virk, Addl. Standing counsel
for respondent-U.T. Chandigarh

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. This writ petition is pending since long. This Court passed an interim order dated 18.02.2005 directing that the petitioner shall not be subjected to any form of coercion during the pendency of the writ petition. On the last occassion, this Court wanted to confirm that whether the main revision petition has been decided or not and it is informed today that the main revision petition has been kept pending on account of the interim order passed, as noticed above.

2. Learned counsel submits that there is no condition of pre-deposit before filing the revision petition. However, we find that as per '*The Punjab Entertainments Duty Act, 1955*', the Revisional Authority may direct the applicant before deciding any applications to deposit whole or in part, the amount of duty due, and penalty, if any, imposed on him under this Act.

3. The Excise and Taxation Commissioner, U.T. Chandigarh passed an order dated 14.02.2005 rejecting the said application of the

petitioner on the ground of non-deposit of total duty and further directed the applicant to deposit the complete duty amount of Rs.13,96,489/-.

4. We find that the approach adopted by the Excise and Taxation Commissioner, U.T. Chandigarh is slightly erronerous. He should have directed firstly the petitioner to deposit the whole duty or part of the duty amount before adjudicating the application and rejecting the same.

5. Be that as it may, as there was already an interim order passed by this Court restraining the respondents to take coercive steps, which the petitioner has been enjoying for almost 19 years, it would be in the interest of the Revenue department if we direct the petitioner to deposit 50% i.e half of the duty amount of Rs.13,96,489/-. Accordingly, we direct the petitioner to do the needful within a period of two weeks'. Henceforth, in case, the above amount is deposited within a period of two weeks by the petitioner, the Excise and Taxation Commissioner, U.T. Chandigarh shall proceed to decide the revision on merits within a period of two months thereafter. However, till disposal of the revision petition by the authorities, the interim order dated 18.02.2005 passed by this Court shall continue.

6. The revision petition stands disposed of in the above terms.

7. Pending applications, if any, is/are also disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

April 30, 2024
G Arora

(SUDEEPTI SHARMA)
JUDGE

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