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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9624-2024 (O&M)
Date of Decision: 30.04.2024

DISTRICT TAX BAR ASSOCIATION REGD. FARIDABAD THROUGH PRESIDENT RAJEEV GAUR

.......Petitioner

V/s.

STATE OF HARYANA THROUGH SECRETARY DEPARTMENT OF EXCISE AND TEXATION HARYANA CIVIL SECRETARIAT CHD. AND ANOTHER

........Respondents

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

Present Mr. Mandeep Singh Khillan, Advocate
for the petitioner.

Ms. Tanisha Peshawaria, DAG, Haryana.

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SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioner by way of this Writ Petition assails "the Haryana One Time Settlement Scheme for Recovery of Outstanding Dues, 2023" (hereinafter referred to as "the Scheme") introduced by the Haryana Government vide notification dated 30.12.2023 under the Haryana Settlement of Outstanding Dues Act, 2017.

2. Learned counsel for the petitioner-Association has submitted that as per Clause 15 of the Scheme, "*no appeal shall lie before any appellate authority, under the relevant Act, High Court or Supreme Court against the final order passed by the jurisdictional authority under the OTS scheme.*"

3. He submits that the said Clause results in leaving the applicants remediless. He submits that as per the Scheme, the admitted tax is defined as payment due at the time of filing return, but in some cases, tax is due after adjusting input tax credit. In this regard, no tax is due at the time of filing of returns. The full benefit of input tax is not available to person under the CST Act and hence, additional demand is created under CST Act which the Assessing authority treats it tax due as per the return and therefore, includes in the category of admitted tax wherein the same should be treated as differential to be paid @30% while opting for the OTS scheme as published. However, the authorities are treating the said amount to be paid as 100% while opting the said OTS Scheme and therefore, there is a denial of OTS Scheme to persons who have an input tax credit benefit to them.

4. He, therefore, submits that the Scheme is defective and deprives persons from even filing appeal against the order denying persons from opting for the Scheme.

5. We find the arguments of learned counsel for the petitioner to be wholly erroneous. Though, so far as the scheme is concerned, the same comes in question only when a person is allowed to join the Scheme. For those, who are denied to join the Scheme, the remedy is available elsewhere and it cannot be said that Clause 15 would be operative for such persons. Clause 15 of the Scheme would come in purview only after the settlement amount is arrived at by the Settlement Committee. It is at that stage, the appeal is not provided to the persons in whose favour or against the final adjudication by the Settlement Committee is done. Thus, even the respondents or the assessee would not be allowed to challenge the settlement amount finally being arrived at.

6. We, therefore, do not find the arguments raised by the learned counsel for the petitioner at bar to be sufficient for interfering with the Scheme for the reasons as stated above.

7. The present Writ Petition, therefore, fails and is accordingly ***dismissed***.

8. All pending applications filed in this case shall stand disposed of accordingly.

[SANJEEV PRAKASH SHARMA]
JUDGE

April 30, 2024
Ess Kay

[SUDEEPTI SHARMA]
JUDGE

Whether speaking / reasoned	:	*Yes*	/	*No*
Whether Reportable	:	*Yes*	/	*No*