



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

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Date of Decision: 10.12.2025

1. CWP-511-2009

M/S SUPER HINGES PVT. LTD.

...Petitioner

Versus

STATE OF PUNJAB AND ORS.

...Respondents

2. CWP-19101-2007

M/S SUPER HINGES PVT. LTD.

...Petitioner

Versus

STATE OF PUNJAB AND ORS.

...Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present:- Mr. Aman Bansal, Advocate with
Ms. Anjali Bansal, Advocate
for the petitioner

Mr. Arun Jindal, Addl. A.G. Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. As common issues are involved in the captioned petitions, with the consent of both sides, the same are hereby disposed of by this common order. For the sake of brevity and convenience, facts are borrowed from **CWP-511-2009.**

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of auction notice dated 04.12.2007 (Annexure P-17) and direction to respondent to issue fresh

auction notice after fixing reserve price as per Rule 70 of Punjab Value Added Tax Rules, 2005 (for short '2005 Rules').

3. The petitioner is engaged in the business of manufacture and sale of hinges. It cleared a consignment of hinges which was detained by Excise and Taxation Officer alleging misdeclaration of value. It preferred CWP-16554-2007 before this Court seeking release of goods and truck. The said petition was withdrawn on 12.11.2007 with liberty to challenge penalty order dated 16.10.2007. The petitioner preferred CWP-17609-2007 assailing penalty order dated 16.10.2007. The said petition was disposed of vide order dated 20.11.2007 by observing as under:-

"This petition filed under Article 226 of the Constitution is directed again order dated 16.10.2007 (P.14) to the extent that the application of the petitioner under Rule 70 of the Punjab Value Added Tax Rules, 2005 (for brevity, the Act) is not being entertained. According to the aforementioned provisions the petitioner could file an application for adopting the auction procedure on the value assessed by the respondent authorities. Learned counsel for the petitioner states that the petitioner may challenge the order dated 16.10.2007 (P14) at an appropriate forum for other purposes by respondent No.3 must entertain his application for adopting auction procedure. Notice of motion.

Mr. Anmol Rattan Singh, Additional Advocate General, Punjab, who is present in the Court accepts notice on behalf of the respondents on our asking. A copy of the paper book has been handed over to Mr. Anmol Rattan Singh. With the consent of learned counsel for the parties, the case is taken up today itself for final disposal.

After hearing the Id. Counsel for the parties, we are of the considered view that the request of the petitioner deserves to be accepted. Let an application be filed within one week from today by the petitioner with a request to respondent No.3 to adopt auction procedure. If such an application is filed, then

the same is to be decided and disposed of in accordance with law expeditiously.

The writ petition is disposed of in the above terms."

4. Pursuant to directions of this Court, the respondent issued auction notice dated 04.12.2007. The petitioner preferred *CWP-19101-2007* assailing aforesaid auction notice. The auction notice was challenged on the ground that respondent has not followed procedure as contemplated by 2005 Rules. This Court vide order dated 21.12.2007 stayed auction proceedings. On 24.03.2008, State counsel sought time to enable Assessing Authority to look into the matter for reassessing value of detained goods. The respondent filed affidavit dated 09.05.2008 deposing that as per market survey, goods are likely to fetch a sum of Rs.7-8 lacs. The petitioner was granted liberty to pay penalty amount within two weeks. It was further granted liberty to avail remedy in accordance with law. The petitioner was made aware that in case it fails to deposit penalty amount, the Department would be at liberty to sell the goods at any price higher than the penalty amount and after adjusting the penalty, the excess amount would be paid to him. The respondent conducted auction on 24.12.2008 wherein goods were sold for a sum of Rs.4,92,000/-. This Court took serious view of the fact that respondent was claiming value of detained goods Rs.7-8 lacs whereas have been auctioned for a sum of Rs.4,92,000/-. By order dated 13.02.2009 passed in *CWP-511-2009*, Chief Secretary, Punjab was directed to depute an Officer not below the rank of Principal Secretary to conduct an inquiry as to how and why all these irregularities have crept in and to record findings fixing the responsibility of the officers concerned, if any. The relevant extracts of order dated 13.02.2009 read as:-

“When we confronted the State Counsel with the aforesaid development and asked her a pointed question as to how the assessment could have been made at the rate of Rs.8,44,900/-, she produced before us the bill, wherein the gross price of the goods have been depicted as Rs.8,36,000/- and the dealer has given discount of 45%. The total value is shown Rs.4,78,592/-. On the basis that discounted amount is to be included in the assessment, the department sought to assess the petitioner at the un-discounted price, whereas, the market value of the goods eventually came to be Rs.4,92,000/- which is apparent from the auction conducted by the department itself.

After hearing the learned counsel at some length, we find that this is a fit case to find out the basis of the whole assessment proceedings as well as auction proceedings. Such type of complaints are made daily by the petitioner's side and, therefore, we deem it just and appropriate to direct the Chief Secretary, Punjab to depute an Officer, not below the rank of Principal Secretary, to conduct an inquiry as to how and why all these irregularities have crept in and record findings fixing the responsibility of the officers concerned, if any. The petitioner shall cooperate in the inquiry. The Chief Secretary may depute any Principal Secretary within a period of two weeks for the aforesaid purpose and the report be prepared within a further period of four weeks and the same be placed before this Court on or before 16.4.2009.”

5. The respondent conducted inquiry and concluded that Assessing Authority worked *bonafidely* and as per its wisdom. There was no *mala fide* intention. He took market price from different sources and formed an opinion that value of goods in question was more than Rs.8 lacs.

6. Learned counsel for the petitioner submits that respondent acting beyond its jurisdiction detained goods in question and thereafter imposed exorbitant penalty. The respondent imposed penalty of Rs.4,22,250/-

whereas goods were auctioned for Rs.4,92,000/-. The action of respondent was mala fide and contrary to settled proposition of law that value of goods cannot be determined while passing order under Section 51 of Punjab Value Added Tax 2005 (for short '2005 Act'), because proceedings under Section 51 are summary in nature.

7. *Per contra*, learned State counsel submits that authorities acted *bonafidely* and there was no *mala fide* intention. The inquiry which was conducted as per directions of this Court established that Detaining Authority acted in accordance with law.

8. On being asked, learned counsel for the petitioner concedes that penalty order has neither been challenged in the instant petitions nor appeal was filed as per provisions of 2005 Act.

9. The petitioner neither filed appeal against penalty order nor challenged before this Court, though on the earlier occasion challenged penalty order by way of *CWP-17609-2007* which was disposed of without setting aside penalty order. In such circumstances, inescapable conclusion is that penalty order has attained finality. The respondent has right to recover penalty from auction money. The respondent has sold detained goods for a sum of Rs.4,92,000/-. The amount of penalty is Rs.4,22,250/-. The respondent is liable to refund auction money after deducting penalty amount.

10. In the wake of above discussions and findings, we are of the considered opinion that writ petitions need to be disposed of with a direction to respondent to refund a sum of Rs.69,750/- (4,92,000 – 4,22,250) with interest @6% p.a. if not already refunded. The refund shall be made within a period of four weeks from the date petitioner would submit certified copy of this order along with bank details. Ordered accordingly.

- 11.Both the petitions are disposed of in above terms.
- 12.Pending application(s), if any, also stands disposed of.

(JAGMOHAN BANSAL)

JUDGE

(AMARINDER SINGH GREWAL)

JUDGE

December 10, 2025

Deepak DPA

Whether Speaking/reasonedYes/No

Whether ReportableYes/No