146 IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

CWP-17764-2025 (O&M)
Decided on:16.07.2025

M/s Maharaja Spices .... Petitioner

versus

Haryana Govt. Excise and Tax Department .... Respondent

CORAM: HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I.MEHTA

Present: Mr. Aditya Tripathi, Advocate (through video conferencing) with
Mr. Jaiveer Singh, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, Sr. DAG, Haryana.

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Lisa Gill, J. (Oral)

Prayer in this petition is for setting aside order dated 16.06.2025 (Annexure P-4) passed under Section 130 of Haryana Goods and Services Tax Act, 2017 passed by the respondent.

2. Learned counsel for the petitioner has raised various arguments to the effect that applicable provisions have not been adhered to by the authorities while conducting the proceedings thus vitiating the same. Allegation of malafide has been raised against the officer conducting the CGR though it is to be noted that the said officer has not been impleaded as party to the present petition. Learned counsel further submits that irrelevant observations are reflected in the show cause notice as well as in the impugned order dated 16.06.2025, value of goods has been enhanced by the officer without any basis while it was not within the purview of the officer to have taken such a step. It is thus prayed that this petition be entertained and allowed.

3. Having heard learned counsel for the petitioner, we do not find any ground to cause any interference in exercise of jurisdiction under Article 226 of the Constitution of India keeping in view of the alternate statutory remedy available to it. It is a settled position that the High Court shall not cause interference where there exists an alternate remedy, except in extraordinary and exceptional circumstances. It has been held by Hon'ble the Supreme Court in ***United Bank Of India vs Satyawati Tandon & Ors., 2010 (8) SCC 110*** as under:

> *"18. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 f the Constitution. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance. It must be remembered that stay of an action initiated by the State and/or its agencies/instrumentalities for recovery of taxes, cess, fees, etc. seriously impedes execution of projects of*

public importance and disables them from discharging their constitutional and legal obligations towards the citizens. In cases relating to recovery of the dues of banks, financial institutions and secured creditors, stay granted by the High Court would have serious adverse impact on the financial health of such bodies/institutions, which ultimately prove detrimental to the economy of the nation. Therefore, the High Court should be extremely careful and circumspect in exercising its discretion to grant stay in such matters. Of course, if the petitioner is able to show that its case falls within any of the exceptions carved out in Baburam Prakash Chandra Maheshwari v. Antarim Zila Parishad AIR 1969 SC 556, Whirlpool Corporation v. Registrar of Trade Marks, Mumbai (1998) 8 SCC 1 and Harbanslal Sahnia and another v. Indian Oil Corporation Ltd. and others (2003) 2 SCC 107 and some other judgments, then the High Court may, after considering all the relevant parameters and public interest, pass appropriate interim order.

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25. In Raj Kumar Shivhare v. Assistant Director, Directorate of Enforcement and another (2010) 4 SCC 772, the Court was dealing with the issue whether the alternative statutory remedy available under the Foreign Exchange Management Act, 1999 can be bypassed and jurisdiction under Article 226 of the Constitution could be invoked. After examining the scheme of the Act, the Court observed:

> *"31. When a statutory forum is created by law for redressal of grievance and that too in a fiscal statute, a writ petition should not be entertained ignoring the statutory dispensation. In this case the High Court is a statutory forum of appeal on a question of law. That should not be abdicated and given a go-by by a*

litigant for invoking the forum of judicial review of the High Court under writ jurisdiction."

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26. In Modern Industries v. Steel Authority of India Limited (2010) 5 SCC 44, the Court held that where the remedy was available under the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993, the High Court was not justified in entertaining a petition under Article 226 of the Constitution."

4. Learned counsel for the petitioner is unable to point out any exceptional or extra-ordinary circumstance, which calls for interference in exercise of jurisdiction under Article 226 of the Constitution of India. All the grounds so raised are very well within the realm of consideration of appropriate authority.

5. In the said factual matrix, present petition is dismissed with liberty to petitioner to avail alternate remedy(ies) as may be available to it in accordance with law.

(LISA GILL)
JUDGE

16.07.2025
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(MEENAKSHI I. MEHTA)
JUDGE

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