2025:PHHC:150429-DB

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-21614-2025 (O&M)
Date of Decision: October 29, 2025

M/s Jagtu Mal Murari Lal .....Petitioner

Versus

State of Punjab and others ..... Respondents

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

Present: Mr. Alok Mittal, Advocate for the petitioner

Mr. Saurabh Kapoor, Addl. AG, Punjab.

****

LISA GILL, J.

CM-15545-CWP-2025

1. Affidavit dated 13.10.2025 of Sh. Amardeep Singh Nanda, Excise and Taxation Officer, Ward No. 5, Patiala is taken on record subject to just exceptions.

2. Application is disposed of, accordingly.

CWP-21614-2025

1. Prayer in this writ petition is for setting aside order dated 24.12.2002 (Annexure P7) whereby number of seats of the cinema M/s Malwa Cinema, Patiala, run by petitioner have been revised to the original number sanctioned. Earlier the number of seats had been reduced by respondent vide

order dated 10.09.1999 on an application filed by petitioner. Petitioner further seeks setting aside of recovery notice dated 22.07.2025 for an amount of Rs.1,23,49,424/-. In the alternate, it is prayed that matter be remanded to appropriate Appellate Authority for fresh consideration in accordance with law after affording an opportunity of hearing to petitioner, in view of order dated 30.01.2025 passed in CWP-10299-2006.

2. Brief facts necessary for adjudication of the matter are that petitioner i.e. M/s Jagtu Mal Murari Lal is running two cinemas houses at Patiala namely M/s Phul Theatre and M/s Malwa Picture Palace. Both cinemas were granted separate licenses for screening of films on the basis of which separate returns were filed and entertainment tax paid accordingly.

3. Present writ petition is in respect to M/s Malwa Picture Palace being run by petitioner. M/s Malwa Picture Palace was granted licence by District Magistrate, Patiala to run cinema in terms of provisions of Punjab Cinemas (Regulation) Act, 1952 with seating capacity of 999 seats (Balcony - 270, Upper stall family circle - 334 and Lower stall - 395). It was pointed out by learned counsel for respondents that it is seating capacity of M/s Phul Theatre, which is wrongly reproduced in para 2 of this writ petition instead of seating capacity of M/s Malwa Picture Palace. Seating capacity of M/s Phul Theatre was 926.

4. Pursuant to issuance of notification dated 10.06.1994, application dated 08.09.1999 was submitted by petitioner seeking reduction of seating capacity from original approved capacity of 999 seats. District Magistrate vide communication dated 10.09.1999 allowed seating capacity of 794 seats in respect to M/s Malwa Picture Palace (Balcony - 270, Family circle - 80, Stall 444) from the original capacity of 999. Petitioner, accordingly, deposited tax

CWP-21614-2025 (O&M)

under Head 045 – ‘Other Taxes and Duties Show Tax’ as per challan in form PET – 4 (Annexure P-3 and P-4). Respondent No. 5 vide memo dated 25.01.2001 raised the issue that tax on reduced seating capacity was deposited without any mandatory approval from Excise and Taxation Commissioner in terms of Section 3D of Punjab Entertainment Tax (Cinematograph Shows), Act, 1954 (for short - ‘PET Act’), leading to violation of said provisions. Section 3D of PET Act imposes a prohibition on reduction of seating capacity permitted at the time of grant of licence by District Magistrate except with prior approval of Commissioner, Patiala. Pursuant thereto, Licensing Authority vide notice dated 22.05.2002 directed petitioner to obtain sanction from respondent No. 3 in this respect and in case of failure to do so, seating capacity shall stand restored to original capacity of 999 seats. After expiry of one month, District Magistrate, Patiala vide order dated 24.12.2002 restored the seating capacity to original capacity of 999 seats.

5. Learned counsel for respondents with reference to affidavit dated 13.10.2025 of Sh. Amardeep Singh Nanda, Excise and Taxation Officer, Ward No. 5, Patiala, filed on behalf of respondents, submits that State Government upon representation of cinema owners of State seeking reduction of entertainment tax decided to give a concession of 33% in the entertainment tax. Accordingly, cinema owners had the option to deposit entertainment tax either in lump sum or on actual basis after availing 33% relief from 125% to 50%. Petitioner deposited entertainment tax on lump sum basis. As no notification in regard to concessions annexed by Government was issued, cinema owners were directed to pay entertainment tax without availing concession of 33%. Show cause notice dated 04.09.2003 was, accordingly, issued to petitioner to deposit

the amount of Rs.41,07,710/- as determined by Assistant Excise and Taxation Commissioner.

6. Aggrieved thereof, petitioner filed CWP-10058-2006. Petitioner also filed CWP-10299-2006 in respect to the other cinema run by it, i.e. M/s Phul Theatre Patiala. CWP Nos. 10058 and 10299 of 2006 were dismissed by this Court vide order dated 07.05.2013. About 48 writ petitions were dismissed vide said common order dated 07.05.2013 with lead case being **CWP-987-2005** titled '**Naulakha Theatre, Ludhiana versus State of Punjab and others**'.

7. It is to be noted that petitioner filed Review Application No. 183 of 2014 in CWP-10299-2006 which was dismissed on 12.09.2014, rejecting the contention raised by petitioner therein that CWP-987-2005 was confined merely to the issue of levy of higher rates of entertainment tax despite decision of Government giving concession whereas issue raised in CWP-10299-2006 was different. SLP (C) No. 1838 of 2015 (Annexure P14) was filed by petitioner challenging order dated 12.09.2014 passed in RA-183-2014 in CWP-10299-2006 admittedly in respect to M/s Phul Theatre. Hon'ble the Supreme Court vide order dated 21.07.2022 allowed Civil Appeal Nos. 4852-53 of 2022, which reads as under:-

> " Leave granted.
>
> By the impugned judgment dated 07.05.2013, a number of writ petitions were decided on the question of whether the 33% rebate in entertainment tax is admissible. The writ petitions were dismissed. It is pertinent to note that the appellant herein had also filed writ Petition Nos. 11415 and 13489 of 2005, in which it had raised the plea that it was entitled to 33% rebate in entertainment tax which, as noted above, were dismissed.
>
> It appears that the appellant had also filed Writ Petition No. 10299 of 2006, which was on a different issue, namely, the withdrawal of the order granting reduction of seats in Phul Theatre. This writ petition was also tagged and treated as dismissed along with the other connected writ petitions relating to the withdrawal of 33% rebate in entertainment tax.

CWP-21614-2025 (O&M)

> Consequently, the appellant had filed an application for review stating that the issues involved and the cause of action in At Petition No. 10299 of 2006 were different. The said application has been dismissed by the second impugned order dated 12.09.2014.
>
> Having heard the learned counsel for the appellant, we are inclined to grant relief to the appellant, as it is a case of mistake and error on the part of the counsel for the appellant. The judgment dated 07.05.2013 had disposed of as many as 49 writ petitions. We are of the opinion that the appellant should not suffer for the fault and lapse on the part of its counsel.
>
> Consequently, we set aside the order dated 07.05.2013 dismissing Writ Petition No. 10299 of 2006 and the order dated 12.09.2014 dismissing the review application. The said writ petition is restored to its original number and it shall be heard and decided on merits. We clarify that we have not commented on the merits of the writ petition.
>
> The parties are directed to appear before the High Court on 25.08.2022, when a date of hearing will be fixed.
>
> The appeals are partly allowed and disposed of.
>
> Pending application(s) stands disposed of."

8. Petitioner vide order dated 20.01.2025 in CWP-10299-2006 was relegated to avail its remedy of filing an appeal within six weeks which it was directed would not be dismissed on account of delay and shall be decided on merits subject to fulfillment of all other condition(s) for entertaining the same. In this factual matrix, learned counsel for petitioner vehemently argued that present writ petition has now been filed for setting aside order dated 24.12.2002 and recovery notice dated 22.07.2025.

9. When confronted with the issue that petitioner's earlier writ petition i.e. CWP-10058-2006 claiming the same relief already stands dismissed, therefore, as to how present writ petition can be entertained, learned counsel for petitioner submitted that in view of order dated 12.09.2014 passed by Hon'ble the Supreme Court in SLP (C) No. 1838 of 2015 and subsequent order dated 20.01.2025 passed by this High Court in CWP-10299-2006, which relates to none other but another theatre run by present petitioner itself, present writ petition should be allowed.

CWP-21614-2025 (O&M)

10. In the given facts and circumstances, we are unable to agree with arguments as raised on behalf of petitioner. It is a matter of record that CWP-10058-2006 earlier filed by petitioner for the same relief was dismissed on 07.05.2013. Filing of Review application in CWP-10299-2006 and passing of order dated 21.07.2022 in Civil Appeal Nos. 4852-53 of 2022 and subsequent passing of order dated 20.01.2025 in CWP-10299-2006 can be of no avail to petitioner. Earlier order dated 07.05.2013 passed in CWP-10058-2006 cannot be simply brushed under the carpet or ignored as has been suggested by learned counsel for petitioner. There is nothing on record to indicate as to the reason why necessary steps could not be taken by petitioner in respect to order passed in CWP-10058-2006 whereas necessary steps were taken in respect to CWP-10299-2006. There is no such pleading and neither is there any kind of explanation forthcoming, even at the time of arguments. Even after passing of order dated 20.01.2025, no action had been taken by petitioner till issuance of recovery notice dated 22.07.2025.

11. Keeping in view the facts and circumstances as above, we do not find any ground to cause interference in this matter.

12. Writ petition is, accordingly, dismissed being not maintainable.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

October 29, 2025
Rts

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