

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARHSr. No. 109CWP-31282-2025Date of decision : 16.04.2026

M/s Kochar Woolen Mill (P) Ltd.

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJIPresent : Mr. Armaan Cajla, Advocate, for the petitioner.

Mr. Saurabh Kapoor, Addl. A. G., Punjab.

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DEEPAK SIBAL, J. (Oral)

1. Through order dated 16.11.2015, passed by the Assistant Excise and Taxation Commissioner, ICC, Shambhu (Import), District Patiala, penalty of Rs. 1,39,912/- was imposed on the petitioner under Section 51(7)(c) of the Punjab Value Added Tax Act, 2005 (for short, the Act). The petitioner preferred an appeal under Section 62(1) of the Act to challenge therein imposition of the impugned penalty which appeal, through order dated 19.02.2025, was allowed by the Deputy Commissioner of State Tax (Appeals), Patiala Division, Patiala (hereinafter referred to as the “appellate authority”). Since before the decision of its appeal, the petitioner had deposited the entire penalty amount, after the order of the appellate authority dated 19.02.2025, the petitioner sought its refund, which, through order dated 07.05.2025, passed by the Assistant Commissioner State Tax, State Intelligence and Prevention Unit (SIPU), Patiala, was rejected on the basis of legal opinion given by the Additional Commissioner State Tax-cum-Member Secretary, Internal Review



Cell, Chandigarh. Order dated 07.05.2025 denying refund of the tax deposited by the petitioner is the subject matter of challenge through this petition.

2. Learned counsel for the parties have been heard and with their able assistance the record of the case has also been perused.

3. Section 41 of the Act, which is relevant, is reproduced below for ready reference: -

“41. Power to withhold refund in certain cases:

(1) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the officer competent to grant such refund is of the opinion that the grant of the refund is likely to adversely affect the revenue, such officer may, with the previous approval of the Commissioner, withhold the refund till such time, as may be determined.

(2) Where a refund is withheld under sub-section (1), the Commissioner shall pay interest in accordance with the provisions of section 40 on the amount of refund ultimately determined to be due to the person as a result of appeal or further proceeding or any other proceeding for the period, from the date, immediately following the expiry of the period of ninety days from the date of the order referred to in sub-section (1), to the date of refund.”

4. A perusal of the above provision clearly reveals that refund payable to an assessee can be withheld when the order through which refund becomes due is the subject matter of an appeal or further proceedings which are pending, the competent authority is of the view that refund of the deposited tax would be prejudicial to the revenue and that in this regard, there also exists previous approval of the Commissioner.

5. In the case in hand it is undisputed that the order of the appellate authority dated 19.02.2025, which entitled the petitioner to refund of the tax earlier deposited by it was neither appealed against nor was such order subject matter of any further proceedings. It is also not denied by learned counsel for



the respondents that no permission of the Commissioner to withhold the refund payable to the petitioner has been obtained.

6. On reading of the impugned order dated 07.05.2025, we also find therein that the authority competent has not recorded any satisfaction that releasing of refund to the petitioner would adversely affect the revenue.

7. In the light of the above, we have no hesitation in quashing the impugned order dated 07.05.2025 with a further direction to the respondents to forthwith release the due refund to the petitioner, alongwith applicable interest.

8. The petition is allowed in the above terms.

[DEEPAK SIBAL]
JUDGE

16.04.2026
shamsher

[LAPITA BANERJI]
JUDGE

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