(2010) 07 P&H CK 0247

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 18650 of 2009

Ahluwalia Contracts (I) Ltd. APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 29-07-2010

Acts Referred:

Punjab Value Added Tax Act, 2005 — Section 62(5)

Citation : (2013) 59 VST 183

Hon'ble Judges : Ajay Kumar Mittal, J;Adarsh Kumar Goel, J

Bench : Division Bench

Advocate : Sanjay Bansal, with Shaweta Malhotra, for the Appellant; Piyush Kant Jain, Additional Advocate-General, Punjab, for the Respondent

Judgement

Adarsh Kumar Goel, J.—This petition seeks quashing of order, annexure P9, passed by the appellate authority under the provisions of the Punjab Value Added Tax Act, 2005 (for short, "the Act"), dismissing the appeal of the petitioner in terms of section 62(5) of the Act for non-deposit of 25 per cent of the tax. The learned counsel for the petitioner refers to demand notice, annexure P3, mentioning that as against the amount of tax due being about Rs. 4 crores, the petitioner had already paid more than Rs. 3 crores and thus, it could not be held that even 25 per cent of the tax had not been paid. It is also submitted that the petitioner has raised question of jurisdiction and therefore, the entire amount of assessed tax is in issue.

2. On December 7, 2009, the following order was passed:

It is submitted that the petitioner has deposited more than 25 per cent of the amount disputed in appeal and finding in the impugned order, annexure P9, that 25 per cent of the remaining amount is required to be deposited is contrary to the statutory provisions.

Notice to respondent No. 1.

Mr. J.S. Puri, Additional Advocate-General, Punjab, present in court, accepts notice and seeks time to take instructions.

List again on January 14, 2010.

3. We have heard learned counsel for the parties.

4. In view of undisputed position that the petitioner has paid more than 25 per cent of the amount, the view taken by the appellate authority that 25 per cent should be worked out on the balance amount of tax due, cannot be accepted.

5. Accordingly, the impugned order, annexure P9, dated November 5, 2009 is quashed. The matter is remitted to the appellate authority for a fresh decision on the merits in accordance with law.

6. The petitioner may appear before the said authority for further proceedings on November 15, 2010. The petition is disposed of.