(2010) 08 P&H CK 0129

In the Punjab And Haryana At Chandigarh

Chattley and Sons. APPELLANT

Vs

The State of Punjab and Another RESPONDENT

Date of Decision : 27-08-2010

Acts Referred:
Punjab Value Added Tax Act, 2005 — Section 62(5), 68

Citation : (2010) 08 P&H CK 0129

Hon'ble Judges : Ajay Kumar Mittal, J;A.K. Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal has been preferred by the assessee u/s 68 of the Punjab Value Added Tax Act, 2005 (for short, "the Act") against order dated 5.4.2010 passed by the Value Added Tax Tribunal in Appeal (VAT) No. 56 of 2010, proposing to raise following substantial questions of law:

I) Whether in the facts and circumstances of the case, the dealer had made any attempt to evade the tax and is thus liable for demand of tax under the Punjab VAT Act?

II) Whether the non payment of the 25% of additional demand u/s 62(5) can be a ground of not entertaining the appeal?

III) Whether on the facts and circumstances of the case, the order passed by the Tribunal is non speaking and not in the conformity with the principles of Natural Justice?

IV) Whether on the facts and circumstances of the case, the learned Tribunal is justified in upholding the fact that the appellant should deposit a sum of Rs. 5,00,000/- as a condition for the matter to be heard before the learned DETC (Appeals) without appreciating the financial condition of the appellant.

2. Order of assessment dated 6.4.2009 was passed by the designated officer raising demand of tax after rejecting the claim for input tax credit claimed by the

assessee. Appeal against the said order was dismissed by the appellate authority for non-compliance of Section 62(5) of the Act i.e. for non-deposit of 25% of the demand as a condition for hearing the appeal on merits. On further appeal, the Tribunal directed the appeal to be heard on deposit of Rs. 5 lacs, as required u/s 62(5) of the Act.

3. We have heard Learned Counsel for the appellant.

4. Contention raised on behalf of the appellant is that the appellant was entitled to input tax credit as sought and in such a situation, requirement of pre-deposit was not called for.

5. We are unable to accept this submission. For deciding the contention raised, merits of the case will have to be gone into by the appellate authority, for which the appellant is required to deposit 25% of the demand. This being the position, questions raised cannot be held to be substantial questions of law. The appeal is dismissed.

6. However, time for deposit of the amount is extended by six weeks from today.