(2006) 11 P&H CK 0129

In the Punjab And Haryana At Chandigarh

Dhamija TV Centre APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 21-11-2006

Acts Referred:
Punjab General Sales Tax Act, 1948 — Section 12

Citation : (2007) 10 VST 193

Hon'ble Judges : Rajesh Bindal, J;Adarsh Kumar Goel, J

Bench : Division Bench

Judgement

1. This petition seeks a direction for payment of interest on the refund, granted under the provisions of the Punjab General Sales Tax Act, 1948 (for short, "the Act"). Prayer has also been made for a direction to give interest on the bank guarantee illegally encashed in violation of judgment of this Court in Jindal Jewellers v. State of Punjab [2004] 138 STC 93.

2. Case of the petitioner is that on August 22, 2003, its goods were intercepted at the information collection centre set up at the border under the provisions of the Act on the ground that the documents were not proper. Though the petitioner presented surety bonds for release of goods on September 19, 2003, the goods were released on bank guarantee on October 2, 2003 and it was only on March 19, 2004 that enquiry was completed on the question whether the petitioner had tried to evade tax. Vide order dated March 19, 2004, penalty of Rs. 1,65,000 was imposed and bank guarantee was encashed. Appeal of the petitioner was dismissed by the appellate authority on January 19, 2005 but on further appeal, the Tribunal set aside the order of penalty vide order dated July 19, 2005 on the ground that the order of penalty was passed beyond the statutory period of 14 days. The petitioner applied for refund on August 5, 2005, which was granted only on March 22, 2006 without interest. This Court in judgment dated July 12, 2005 in C.W.P. No. 17062 of 2004, Jai Bharat Trading Co. v. State of Punjab [2006] 147 STC 19 held that if refund is beyond 90 days, interest is liable to be paid. In Jindal Jewellers Vs. State of Punjab and Others, this Court held that 75

per cent of bank guarantee was liable to be refunded within one month of the order failing which the dealer was entitled to interest at the rate of 9 per cent per annum from the date of encashment of the bank guarantee. Reference has been made to Section 12 of the Act providing for refund and also providing for interest at the rate of 12 per cent if refund was not granted within 90 days from the date the same became due for the first one month and at the rate of 18 per cent for the subsequent period.

3. Learned Counsel for the State submitted that interest on the amount of refund has since been paid in accordance with the statutory requirement and, thus, the petition has become infructuous.

4. Learned Counsel for the petitioner, however, submitted that the petitioner was also entitled to interest on the amount of bank guarantee encashed from the date of its encashment, as was allowed in Jindal Jewellers Vs. State of Punjab and Others, .

5. We are unable to accept this submission. Judgment in Jindal Jewellers Vs. State of Punjab and Others, does not lay down the proposition as is sought to be projected by the petitioner. Interest was directed to be paid in that case in case the amount was not refunded within 30 days of the receipt of the copy of this court''s order. In the present case, the amount has already been refunded to the petitioner.

6. The writ petition is disposed of accordingly.