(1995) 09 P&H CK 0107

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 7306 of 1995

Jindal Strips Limited APPELLANT

Vs

State of Haryana and Another RESPONDENT

Date of Decision : 12-09-1995

Acts Referred:
Haryana General Sales Tax Rules, 1975 — Rule 35(1)

Citation : (1995) 111 PLR 532

Hon'ble Judges : S.P. Kurdukar, C.J;V.K. Bali, J

Bench : Division Bench

Advocate : Rajesh Bindal, for the Appellant; S.K. Kapoor, for A.A.G, for the Respondent

Judgement

S.P. Kurdukar C.J. and V.K. Bali, J.—Admit, pleadings of the parties are complete. By consent writ petition placed on Board and called out for hearing.

2. Vide order dated December 18, 1991, annexure P-1 the Assessing Authority-cum-Deputy Excise and Taxation Commissioner, Hisar finalised the assessment of the petitioner company under the Haryana General Sales Tax Act, 1973 for the year 1988-89 and passed the order of refund. The order reads thus:-

"Issue copy of order alongwith refund voucher of Rs. 4,35,600/- (Rs. Four lacs thirty five thousand six hundred only)."

Despite this order it appears, no refund voucher was sent to the petitioners. It is averred by the petitioners that on 9th March, 1993, they sent the reminder (Annexure P-2) requesting the authority to send the refund voucher. Petitioners went on sending the reminders one after the another (See Annexures P-3 and P-4) and ultimately on 4th May, 1994, refund adjustment voucher was issued by the Sales Tax Authority (Annexure P-5). The petitioners on 11th November, 1994 requested the Authority to pay the interest for the delay payment in issuing the refund voucher. Again on 17th December, 1994 a reminder was sent to the Authority (Annexure P-7) yet no action was taken thereon. Consequently reminder (Annexure P-8) was sent on 12th January, 1995, yet no reply was received from the Authority. It is in these circumstances that the petitioner have filed this writ petition for appropriate relief. The relief claimed in this petition is for the payment of interest from 18th December, 1991 to 3rd of May, 1994 on which date refund voucher was issued by the Sales Tax Authority (see Annexure P-5).

3. The only defence set up by the respondents is contained in paragraph 11 of their reply. According to the respondents, petitioners are not entitled to interest under Rule 35(1)(a) because they had not furnished surety bond. Delay was on the part of the petitioners and not on the part of the respondents. It was then averred in the said paragraph that interest is payable to the assessee under Rule 35(1) (b) if the order is made by any Appellate or Revisional Authority.

4. We have seen the relevant provisions contained in Rule 35(1) (a) and 35(1) (b) of the Haryana General Sales Tax Act, Rules 1975. After hearing the learned Counsel for the parties, we are of the opinion that there was unexplained delay on the part of respondents in sending the refund voucher to the petitioners despite the order passed by the Assessing Authority on 18th December, 1991 (See Annexure P-1). In our opinion, the provisions of Rule 35(1)(a) are attracted and the petitioner is entitled to interest on the delayed payment, respondents are directed to pay the interest from 1st January, 1992 till 3rd of May, 1994 at the rate of 12% per annum. The respondents are directed to pay the said amount of interest expeditiously and preferably before 31st December, 1995.

6. The writ petition to stand disposed of in the above said terms.