(1976) 12 P&H CK 0009

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 7874 of 1976

Surindera Rice and General Mills APPELLANT

Vs

Deputy Excise and Taxation Commissioner and Others RESPONDENT

Date of Decision : 07-12-1976

Acts Referred:
Punjab General Sales Tax Act, 1948 — Section 20

Citation : (1978) 41 STC 323

Hon'ble Judges : S.S. Sidhu, J;M.R. Sharma, J

Bench : Division Bench

Advocate : B.S. Malik, for the Appellant; V.P. Prashar, A.A.G., for the Respondent

Judgement

M.R. Sharma, J .

1. The grievance made in this petition is that the petitioner filed an appeal against the order of assessment and along with the memorandum of appeal he also filed a petition praying therein that he should not be called upon to deposit the tax in advance pending final disposal of his appeal. The appellate authority has not decided either the appeal or the said petition and, in this manner, the remedy of appeal is being made wholly illusory and the tax assessed is being recovered by coercive process of law.

2. After hearing the learned counsel for the parties, we are of the view that Section 20 of the Punjab General Sales Tax Act has to be read as a whole. The proviso appended to it has also to be given a proper meaning. The appellate authority cannot prolong the consideration of the appeal without first deciding the application in which the assessee seeks a decision under the proviso to Section 20(5) of the said Act. We accordingly direct the appellate authority to decide that application before taking up the appeal filed by the assessee on merits. Till decision of that application, realisation of tax assessed against the petitioner is ordered to be stayed. No costs.