(2002) 09 P&H CK 0125

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 15220 of 2002 (O and M)

Vipul Bartan Bhandar APPELLANT

Vs

State of Punjab and Others RESPONDENT

Date of Decision : 20-09-2002

Acts Referred:

Punjab General Sales Tax Act, 1948 — Section 14B(7)

Citation : (2003) 129 STC 54

Hon'ble Judges : Virender Singh, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : Kishan Singh, for the Appellant;

Judgement

N.K. Sodhi, J.—By order dated June 29, 2002 the Excise and Taxation Commissioner imposed a penalty of Rs. 92,700 u/s 14-B(7)(iii) of the Punjab General Sales Tax Act, 1948. Earlier when the goods were detained under this provision the petitioner got the same released on furnishing a bank guarantee, The grievance of the petitioner is that a copy of the aforesaid order has been supplied to him only on September 18, 2002 and even though he has 60 days'' time to file an appeal before the Deputy Excise and Taxation Commissioner, the respondents are seeking to encash the bank guarantee without allowing the petitioner to file the appeal and obtain appropriate order from the appellate authority.

2. For the view that we are taking, it is not necessary to issue notice to the respondents.

3. Since a copy of the order imposing penalty has been supplied to the petitioner only on September 18, 2002 let him file an appeal before the Deputy Excise and Taxation Commissioner and make a prayer for stay which will be considered by the appellate authority in accordance with law. The respondents are restrained from encashing the bank guarantee till the stay application, if filed by the petitioner along with appeal within the period of limitation, is decided by the

Deputy Excise and Taxation Commissioner. In case no appeal is filed, it will be open to the respondents to encash the bank guarantee after the expiry of the limitation for filing the appeal.

4. The writ petition stands disposed of as above.

Copy of this order be given dasti on payment of requisite charges.