
Crown Steel Industries Vs Excise and Taxation Officer and Others

None

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Oct. 11, 2007

Acts Referred:

Constitution of India, 1950 – Article 226

Citation: (2007) 4 PLR 753

Hon'ble Judges: M.M. Kumar, J; Ajay Kumar Mittal, J

Bench: Division Bench

Judgement

M.M. Kumar, J.

This petition filed under Article 226 of the Constitution prays for quashing assessment order dated 12.09.2006 (P-6)

framed by the Designated Officer-respondent No. 1 in respect of the purchases made by the petitioner. Further, prayer has also been made for

issuance of direction to respondent No. 1 to refund all the Input Tax Credit (ITC), which has been rejected in respect of period 2005-2006 after

parsing order dated 12.09.2006. In para-8 of the writ petition, it has been asserted that notice dated 01.09.2006 u/s 13 read with Rule 21 (3)(a)

of the Punjab Vat Act, 2005 (P-4) was issued to the petitioner firm to prove the genuineness of ITC claimed by the petitioner firm and the

petitioner was asked to appear before respondent No. 1 on 12.09.2006. According to the petitioner, the notice was received by it on

07.09.2006.

2. In the corresponding para of the reply filed by the respondent, it has not been denied that the notice was issued on 01.09.2006 and the same

was received by the petitioner on 07.09.2006. In sub para (v) of para-12, it has been conceded that the notice was received by the petitioner on

07-09-2006 and the matter was heard on 12.09.2006.

3. According to Rule 47 of the Punjab VAT Rules, 2005 (for brevity "the Rules"), a notice issued under this rule is required to provide a time

period of not less than 10 days for production of such accounts and documents as specified in the notice. It is obvious that the petitioner has

received the notice dated 01.09.2006 on 07.09.2006 and the period of 10 days envisaged by Rule 47 of the Rules was not made available to the

petitioner because the order was passed on 12.09.2006 itself when the petitioner has appeared.

4. In view of the peculiar facts and circumstances of the case, learned State counsel has stated that impugned order dated 12.09.2006 (P-6) may

be set aside by granting liberty to respondent No. 1 to pass an order afresh in accordance with law after complying with provisions of Rule 47 of

the Rules. 5. In view of the above, order dated 12.09.2006(P-6) is set aside with liberty to the Designated Officer to pass a fresh order in

accordance with law including the provisions of Rule 47 of the Rules. The writ petition stands disposed of.