

(2003) 12 P&H CK 0100

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Lakbros Shoes Co. (P) Limited

APPELLANT

Vs

Sales Tax Tribunal and Another

RESPONDENT

Date of Decision: Dec. 8, 2003

Citation: (2008) 11 VST 395

Hon'ble Judges: N.K. Sud, J; J.S. Narang, J

Bench: Division Bench

Final Decision: Allowed

Judgement

N.K. Sud, J.

Petitioner is a limited company. Its assessment for the assessment year 1993-94 under the Haryana General Sales Tax Act, 1973, was framed on February 9, 1996. The said order was revised by the Deputy Excise and Taxation Commissioner, vide, order dated March 8, 1999 whereby a demand of Rs. 8,78,073 was created. Aggrieved by the said order, the petitioner filed an appeal before the Sales Tax Tribunal, Haryana, Chandigarh. Along with the appeal, an application for entertainment of the appeal without pre-deposit of tax was also moved. The Tribunal, vide, its order dated May 20, 1999 (annexure PI) required it to deposit the entire tax in four equal monthly instalments starting from within a month from the date of receipt of that order. The time for payment of tax was further extended by the Tribunal, vide, its order dated May 9, 2000 and the petitioner was required to deposit the amount within sixty days from the date of that order.

2. According to the petitioner, the entire demand except a sum of Rs. 6,622, was paid within the stipulated period. As a matter of abundant caution, the petitioner had also filed an application for condonation of delay in making the payment of the disputed demand. The Tribunal took up the appeal and the application for condonation of delay and disposed them of vide common order dated November 29, 2001. The prayer for condonation of delay was declined and the appeal was dismissed on account of non-compliance of its earlier order regarding pre-deposit of

tax by the stipulated dates. Petitioner, thereafter, moved an application for rectification/condonation of delay and restoration of the appeal on the ground that there was no delay in making the payment of the disputed tax liability except for a paltry amount of Rs. 6,622. This omission, as per the petitioner, had taken place due to some calculation error. However, even that amount had been deposited on November 22, 2001. The Tribunal dismissed this application also on the ground that the cheque for Rs. 2,99,384 was submitted on July 10, 2000 which was beyond the time given by the Tribunal in its order dated May 20, 1999. It is against these orders that the present writ petition has been filed.

3. We have heard the counsel for the parties and perused the impugned orders. It is the admitted position that the entire tax liability except for a small amount of Rs. 6,622 had been paid within the time allowed vide order dated May 9, 2000 passed by the Tribunal in review and that the delay to pay the small difference of Rs. 6,622 was on account of a calculation error. Even this amount was paid on November 22, 2001. It appears that while passing the impugned order dated March 21, 2002 (annexure P7), its earlier order dated May 9, 2000 had completely escaped the notice of the Tribunal. In view of the fact that the petitioner had substantially complied with the order of the Tribunal dated May 9, 2000 and also that the entire tax stands paid, we are of the view that the slight delay of a few months in payment of Rs. 6,622 deserved to be condoned and the appeal be heard on merits.

4. Accordingly, the writ petition is allowed. Orders, annexures P5 and P7, are set aside and the matter is remanded to the Tribunal for disposal of the appeal afresh on merits. No costs. Parties, through their counsel, are directed to appear before the Tribunal on January 19, 2004 for further proceedings.