

**(2003) 12 P&H CK 0101**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** None

Dheeraj Garments

APPELLANT

Vs

Sales Tax Tribunal and Another

RESPONDENT

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**Date of Decision:** Dec. 8, 2003

**Citation:** (2008) 11 VST 422

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

**Bench:** Division Bench

**Final Decision:** Allowed

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**Judgement**

N.K. Sud, J.

Petitioner is a partnership-firm. Its assessment for the assessment year 1997-98 under the Central Sales Tax Act, 1956 was framed by the assessing authority, vide, order dated March 1, 2001 and a demand of Rs. 6,59,835 was created. Aggrieved by the said order, the petitioner filed an appeal before the Joint Excise and Taxation Commissioner (Appeals), Rohtak, along with an application for entertainment of the appeal without any prior payment of tax. This application was disposed of by the Joint Excise and Taxation Commissioner (Appeals), vide, order dated May 9, 2001 whereby the petitioner was directed to pay an amount of Rs. 2,59,835 by May 28, 2001 and the balance in two equal monthly instalments.

2. The order of the Joint Excise and Taxation Commissioner (Appeals) dated May 9, 2001 was challenged before the Sales Tax Tribunal, Haryana in S.T.A. No. 175 of 2000-2001. The Tribunal, vide, its order dated August 24, 2001 dismissed the said appeal.

3. Since the petitioner had failed to comply with order dated May 9, 2001 to deposit the disputed liability, the Joint Excise and Taxation Commissioner (Appeals), dismissed the appeal, vide, order dated January 9, 2002. This order was once again challenged before the Sales Tax Tribunal, Haryana, which vide its order dated August 12, 2002 has dismissed the appeal.

4. Mr. Rajesh Bindal, learned Counsel for the petitioner, states that the entire amount stands paid as under:

Rs. 2,59,835        on        November 8, 2001

Rs. 4 lacs        on        May 24, 2002

5. A perusal of the order of the Tribunal dated August 12, 2002 shows that these payments have not been taken into account while dismissing the appeal of the petitioner.

6. We have heard counsel for the parties and are of the view that since the entire disputed tax stands paid, it would be in the interest of justice that the appeal of the petitioner is disposed of on merits.

7. Accordingly, the writ petition is allowed, order dated January 9, 2002 passed by the Joint Excise and Taxation Commissioner (Appeals), Rohtak (annexure P3) and order dated August 12, 2002 passed by the Sales Tax Tribunal, Haryana (annexure P5) are set aside and the matter restored back to respondent No. 2 to decide the appeal on merits. No costs. Parties, through their counsel, are directed to appear before respondent No. 2 on January 19, 2004.