(2010) 06 P&H CK 0052

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 8128 of 2010

Jagdambey Elastomer Udyog		APPELLANT
	Vs	
State of Haryana and Others		RESPONDENT

Date of Decision: June 28, 2010

Citation: (2011) 42 VST 355

Hon'ble Judges: Ajay Kumar Mittal, J; A.K. Goel, J

Bench: Division Bench

Advocate: Vijay Pal, for the Appellant; Ritu Bahri, Deputy Advocate-General, for the Respondent

Judgement

Adarsh Kumar Goel, J.

In this petition, the petitioner seeks a direction to the respondents to accept personal bond as security for hearing the appeals on merits and setting aside of orders dismissing the appeals for not furnishing security. Against demands raised under the provisions of the Haryana General Sales Tax Act, 1973, the petitioner-firm filed appeals which were dismissed by respondent No. 3 vide order dated May 3, 2005 (annexure P8) on the ground that the petitioner failed to comply with the direction dated June 14, 2004 requiring furnishing of surety bonds as condition for hearing of the appeals. On further appeals, the Sales Tax Tribunal vide order dated March 3, 2006 (annexure P9) allowed the petitioner to furnish surety bond on or before May 31, 2006 on which the appeals were to be heard on merits. The petitioner did not furnish the surety bond within the prescribed time. It filed an application on March 29, 2010 (annexure P10) stating that the firm was closed down and the business was wound up and in such circumstances, the petitioner could not arrange the surety bond. When the petitioner was able to make necessary arrangements, the application was filed seeking revival of the appeals by accepting the personal bond keeping in view the fact that the petitioner had one factory and a residential house of which value was approximately Rs. 50 lacs as against demand of around Rs. 15.33 lacs. No order was passed on the application.

2. We have heard learned counsel for the parties. The learned counsel for the petitioner refers to orders, annexures P6 and P7, noticing hardship to the petitioner and its contention about prima facie case for hearing of the appeal. The learned counsel for the State submitted that there is no explanation for delay on the part of the petitioner in moving this court.

3. Even though learned counsel for the State is right in submitting that the petitioner could have furnished personal bond as now proposed in the year 2006 itself and could have moved this court at that time instead of moving this court after four years, having regard to the facts and circumstances of the case, we are of the view that it would be expedient in the interest of justice that case of the petitioner is examined by the appellate authority on merits by accepting the personal bond furnished by the petitioner as a condition for hearing the appeals.

4. We accordingly set aside the orders dismissing the appeals for want of furnishing of surety bonds and direct that the appeals of the petitioner be heard on merits taking into account the personal bond already furnished. The petitioner may appear before the appellate authority for further proceedings on July 26, 2010. The petition is disposed of.