

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-12107-2021(O&M)
Date of decision : 08.07.2021

M/s. Shiv Shakti Exporters Pvt. Ltd.

..... Petitioner

versus

State of Punjab & ors.

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE VIKAS BAHL**

Present :- Mr. Amar Pratap Singh, Advocate and
Mr. Amrinder Singh, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

1. This writ petition has been filed under Articles 226/227 of the Constitution of India for directing the respondent No.3 to entertain the appeal of petitioner on merits without insisting upon the condition of pre-deposit under Section 62 (5) of the Punjab VAT Act, 2005.
2. The prayer made by the learned counsel for the petitioner is for exemption of paying pre-deposit as a pre-requisite for decision of the appeal on merits.
3. Notice of motion.
4. On advance notice, Mr. Pankaj Gupta, Addl. A.G., Punjab appears and accepts notice on behalf of the respondents-State and has argued that the provision of exemption of mandatory deposit has been accepted by the Supreme Court in the judgment passed in M/s Tecnimont Pvt. Ltd. (Formerly known as Tecnimont ICB Private Limited) vs. State of Punjab and others reported as 2019 SCC Online SC 1228 only in extreme cases. As per him, extreme cases can be where there is financial incapacity of the assessee or where the order is palpably without jurisdiction. He has

further very fairly stated that in view of the peculiar fact that the petitioner has claimed financial hardship some reduction may be given by this Court.

5. In view of these circumstances, we dispose of this writ petition with a direction that in case the petitioner deposits 15% of the demand raised within one month from the receipt of certified copy of this order, the respondent No.3 will proceed to decide the appeal on merits in accordance with law. The impugned order is set aside.

6. Since the main case has been decided, the pending application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(VIKAS BAHL)
JUDGE

08.07.2021
anuradha

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No