

**BEFORE THE COMMISSIONER OF STATE TAXES AND EXCISE,
HIMACHAL PRADESH, SHIMLA-09**

Revision Petition No.: 52/2015-16

Date of Institution: 09-10-2015

Date of Order: 01-09-2022

In the matter of: -

M/S Jasvinder Pal S/o. Sh. Preet Pal Singh
Prop. M/s Universal Traders Toll Plaza
Resident of House No. 45, Ward No. 9,
Devi Nagar, Paonta Sahib, Tehsil Paonta Sahib.
District Sirmour, Himachal Pradesh.

V/s

Addl. Excise and Taxation Commissioner, South Zone
District Shimla, Himachal Pradesh.

Present: -

1. Shri Rakesh Sharma, Advocate for the Applicant/Lessee.
2. Shri Sandeep Mandyal, Sr. Law Officer (Legal Cell) for the Respondent

ORDER

(Under section 10-B of the Himachal Pradesh Tolls Act, 1975)

1. This order shall dispose of the present Revision Petition filed against the order dated 30.06.2015 passed by the Addl. Excise and Taxation Commissioner, South Zone, Shimla-09 and dispatched on 05.08.2015, whereby the Assistant Excise And Taxation Commissioner, District Sirmour was directed to determine the total balance amount of the Toll Lease Fee for the Toll Lease period 2012-13, interest and other charges recoverable against the said Toll Lessee and further to initiate the recovery proceedings as per the prescribed procedure of HP Toll Act, 1975 and conditions of Toll Announcements for the year 2012-13.



2. Significantly, the present Revision was initially filed under Section 10-A of the HP Tolls Act, 1975. At the time of hearing of the arguments, the Learned Counsel appearing for the Appellant/Applicant was asked about the maintainability of the Appeal under section 10-A of the HP Tolls Act, 1975. The learned Counsel for the Appellant requested that the Appellant /Applicant is pursuing the appeal for the last seven years and it will be harsh to dismiss the present appeal on the ground of maintainability, at this stage. Ld. Counsel, therefore, requested to treat the present appeal as Revision under Section 10-B of the Act.
3. In fact, as per section 10-A of the Act, an Appeal shall lie to the Financial Commissioner (Appeals) as an Appellate Authority and this court has power of revision which is conferred by the section 10-B of the Act. Therefore, keeping in view the fact that the proceedings in the matter are pending before this court since, October 2015, this court deems it fit and proper to allow the request of the Ld. Counsel for the Appellant/Applicant and, accordingly, the present Appeal is treated as Revision under section 10-B of the Act and is being disposed of accordingly.
4. The perusal of the record shows that my predecessor has after taking into the consideration all the facts, passed a well reasoned and detailed order dated 02.06.2018. In fact, vide order dated 02.06.2018 my predecessor passed the following directions :-

“It is directed that the in charge District Sirmour will enquire into the claims, submissions, reports and documents purported to have been submitted by the applicant above before him. The Dy. ST&E will also invariably associate the applicant into the inquiries regarding claims made above and would quantify and substantiate the entire set off which may be admissible to the applicant as per claim after verification thereof. The Dy. C ST&E will make an appropriate and necessary inquiry in the matter and after such fresh inquiry in the matter if it is found that the toll lessee has really sustained loss on account of law and order problem, and circumstances mentioned in Para 4. i) to iv) above, he will re-calculate the entire liability including interest due to Government of Himachal Pradesh from the lessee and send the case along with his recommendations to the Excise & Taxation Commissioner through the Addl. Excise & Taxation



Commissioner, South Zone on or before 21-07-2018, next date of hearing in the matter. Applicant is directed to associate himself with the Dy ST&E forthwith”.

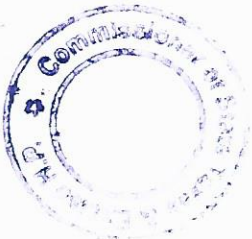
5. This order dated 02.06.2018, has not been challenged by the Appellant/Applicant in any court of law and the same has now, admittedly, attained finality. In compliance to this order, dated 02.06.2018, the Dy. CST&E, Sirmaur submitted a report through proper channel, wherein, it was intimated that the Appellant/Applicant did not submit the claimed record, despite of several notices issued to him.
6. Notwithstanding, this court vide order dated 25.11.2021 granted one more opportunity to the Appellant/Applicant with the directions to produce all the documents in support of his claims of loss. Thereafter, on the request of the Ld. Counsel for the Appellant/Applicant, this case was repeatedly adjourned either for producing documents or for one reason or another, up till 08.06.2022 (i.e. for a period of more than 6 months). This court, thereafter, vide order dated 08.06. 2022 reserved this present case finally for orders.
7. It is a settled law that no person can be benefitted for his own wrongs and one who seeks equity must do equity. It is incumbent upon the Appellant/Applicant to submit his claim as per directions passed vide Order dt. 02.06.2018, especially when the said order has not been challenged in any court of law.
8. In view of the above stated facts, the impugned order is just proper and legal and there is no merit in the Revision Petition and the same is liable to be dismissed and is accordingly dismissed. Let the copy of this order be supplied to the all concerned. File after completion be consigned to record.

Announced on this 1st Day of September, 2022



(Yunus, I.A.S.),


**Commissioner of State Taxes & Excise
Himachal Pradesh, Shimla.**



No. ST&E/ CoSTE-Reader/2022-23/27549-53 Dated: 02-09-2022

Copy forwarded to: -

1. M/S Jasvinder Pal S/o. Sh. Preet Pal Singh Prop. M/s Universal Traders Toll Plaza, Resident of House No. 45, Ward No. 9, Devi Nagar, Paonta Sahib, Tehsil Paonta Sahib, District Sirmour, Himachal Pradesh.
2. Addl. Commissioner State Taxes & Excise, South Zone, Shimla-09.
3. Dy. Commissioner State Taxes & Excise, Sirmour at Nahan, District Sirmour.
4. Shri Rakesh Sharma, Advocate, Anand Vas, Ground Floor, Khalini, Shimla-171002.
- ✓ 5. Shri Sandeep Mandyal, Sr. Law Officer, Legal Cell (HQ).


Reader to
Excise & Taxation Commissioner,
Himachal Pradesh