IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM No. 10412 of 2015 and
CWP No. 13034 of 2015

Date of Decision: 18.8.2015

Machino Polymers Limited, Gurgaon

....Petitioner.

Versus

State of Haryana and another

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.

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

Ms. Mamta Singla Talwar, Deputy Advocate General, Haryana.

AJAY KUMAR MITTAL, J.

CM No. 10412 of 2015

This is an application under Section 151 of the Code of Civil Procedure for placing on record Annexures P-3 to P-5.

Annexures P-3 to P-5 filed along with the application are taken on record subject to all just exceptions. CM stands disposed of accordingly.

CWP No. 13034 of 2015

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the show cause notice dated 28.5.2015 (Annexure P-1) issued by respondent No.2.

2. The petitioner is a dealer registered under the Haryana General Sales Tax Act, 1973 (in short "the Act") as also under the Central Sales Tax Act, 1956 and is filing prescribed quarterly returns and discharging tax obligations. It is engaged in the business of manufacture of polypropylene at Gurgaon. The petitioner was granted eligibility certificate on 17.9.1999 and exemption was granted for the period from 28.11.1996 to 27.11.2003 for a maximum quantum of ₹ 1528.31 lacs. The petitioner filed returns for the assessment year 1997-98 by treating their product as general goods taxable @ 10%. It also filed returns for the assessment year 2001-02 on the similar lines. The department was treating the goods manufactured by the petitioner as general goods liable to tax @ 10% and not plastic goods. This Court vide order dated 17.3.2009 in the case of Excise and Taxation Commissioner v. SK and Company Private Ltd. held that the goods in question were taxable as plastic goods. In pursuance thereto, the revisional proceedings under Section 40 of the Act were initiated against the petitioner for the assessment year 2001-02. The revisional authority vide order dated 13.8.2012 (Annexure P-2) revised the assessment order dated 11.4.2005 for the assessment year 2001-02 by imposing additional liability of ₹ 51,88,606/-. A show cause notice dated 28.5.2015 (Annexure P-1) was issued by respondent No.2 to the petitioner for penal action under Section 47 of the Act. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that to the show cause notice dated 28.5.2015 (Annexure P-1) issued by respondent No.2, the petitioner has filed reply, but no action has so far been taken thereon.

4. After hearing learned counsel for the parties, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to decide the case of the petitioner, in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of one month from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

August 18, 2015
gbs

(RAMENDRA JAIN)
JUDGE