IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 14586 of 2015

Date of Decision: 14.9.2015

DLF Home Developers Ltd., Gurgaon

....Petitioner.

Versus

The State of Haryana and others

...Respondents.

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

PRESENT: Mr. Ashok Aggarwal, Senior Advocate with
Mr. Sandeep Goyal, Advocate
Mr. Puneet Aggarwal, Advocate,
Mr. Saurabh Kapoor, Advocate,
Mr. Rishabh Kapoor, Advocate,
Mr. Abhishek Maheshwari, Advocate and
Ms. Shivani Kapoor, Advocate for the petitioner(s).

Mr. Amrinder Singh, Advocate for the petitioner(s),
(in CWP Nos. 15654, 15655 and 15656 of 2015).

Ms. Mamta Singla Talwar, DAG, Haryana.

AJAY KUMAR MITTAL, J.

1. This order shall dispose of a bunch of 23 petitions bearing CWP Nos. 14586, 14842, 15494, 15654, 15655, 15656, 15798, 16955, 16961, 17752, 17753, 17754, 17755, 17758, 17766, 17879, 17880, 17881, 17885, 17899, 18002, 18119 and 19417 of 2015 as according to learned counsel for the parties, the issues involved herein are identical. For brevity, the facts are being extracted from CWP No. 14586 of 2015.

2. 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 notice dated 23.6.2015 (Annexure P-2). Further, a writ of prohibition has been sought directing respondent No.3 not to proceed with the revisional proceedings initiated vide notice, Annexure P-2 under Section 34 of the Haryana Value Added Tax Act, 2003 (in short “the Act”).

3. A few facts necessary for adjudication of the present writ petition as narrated therein may be noticed. The petitioner had filed its return of income on 30.11.2008 for the assessment year 2007-08. The said return was processed under Section 15(1) of the Act which was assessed at nil turnover vide assessment order dated 15.6.2009 (Annexure P-1). In view of Rule 27 of the Haryana Value Added Tax Rules, 2003, the filing of return and acknowledgment thereof is deemed as assessment order and, therefore, the assessment order dated 15.6.2009 would be deemed to have been passed on the date of filing of the return i.e. on 30.11.2008. Since the deemed assessment has been made on 30.11.2008, the revisional order was required to be passed latest by 30.11.2013. A notice dated 23.6.2015 (Annexure P-2) was issued to the petitioner for revision of the assessment order dated 15.6.2009 (Annexure P-1). According to the petitioner, the show cause notice, Annexure P-2, for revision of the assessment year 2007-08 was issued after the expiry of more than seven years. The revisional authority has no power to make any revision in terms of notification dated 31.3.2003 (Annexure P-3) issued under Section 34(2) of the Act. Hence, the present writ petitions.

4. We have heard learned counsel for the parties.

5. The writ-petitioners have challenged the notice, Annexure P-

2, issued by the Deputy Excise and Taxation Commissioner-cum-revisional authority, Gurgaon (East), Gurgaon on the ground that the same was beyond limitation. It was urged that the notice having been issued without jurisdiction being beyond limitation, the proceedings pursuant thereto could not continue.

6. From the perusal of the writ petition(s), we find that the petitioner(s) on receipt of the notice, Annexure P-2, (Annexures P-3 and P-4 in some of the cases) had filed the writ petitions in this Court challenging the same to be without jurisdiction. In some of the cases, the petitioner(s) had neither filed any objection/reply to the said notice nor raised the pleas as have been raised in the instant writ petitions before the competent authority.

7. At this stage, we do not find any justifiable reason to interfere with the notice under challenge. However, we clarify that the proper course of action for the noticee is to file detailed and comprehensive objection/reply and to raise all the pleas as have been raised in the writ petitions. In case any objection/reply is filed by the petitioner(s) within a period of two weeks from the date of receipt of the certified copy of the order, the revisional authority shall decide the same within a period of six weeks from the date of receipt of the objection/reply in accordance with law after affording an opportunity of hearing to the petitioner(s) and by passing a speaking order before proceeding further in the matter.

8. The writ petitions stand disposed of accordingly.

9. It is, however, made clear that in case the petitioner(s) has any grievance after the order is passed by revisional authority, it shall be

open to the petitioner(s) to take recourse to the remedies as may be available to the petitioner(s) in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

September 14, 2015
gbs

(RAMENDRA JAIN)
JUDGE