IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15079-2015
Date of decision:- 27.07.2015

M/s VV International

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Avneesh Jhingan, Advocate,
for the petitioner.

* * * *

S.J. VAZIFDAR, A.C.J. (ORAL)

Issue notice of motion.

Service of the notice is waived, as Mr. Jagmohan Bansal, learned Additional Advocate General, Punjab accepts notice on behalf of the respondents.

The petitioner has sought a renewal of the certificate of advance tax exemption granted to it under a notification dated 04.10.2013. Its existing exemption certificate came to an end on 30.06.2015. The petitioner had sought renewal by a letter dated 22.06.2015. The application not having been considered, the petitioner addressed a reminder dated 08.07.2015.

2. The exemption is processed in terms of the said notification clause 2 (d) whereof reads as under:-

> *"(2) who intends to dispose of such goods, in any of the following manner, namely:-*
>
> *(d) by making zero rated sales as given under section 17 of the Act of such goods, or of the goods manufactured therefrom, he may make an application, to the Designated Officer, who, if after verifying all aspects of the case, arrives at a decision that the payment of the aforesaid tax, would result in refund, may exempt such*

> *taxable person from the payment of the said tax or reduce the rate of advance tax, with the approval of the Deputy Excise and Taxation Commissioner, In-charge of the concerned Division, by passing a speaking order, in this regard."*

3. The notification does not prohibit the authorities from granting the exemption certificate even for a longer duration or even till it is otherwise revoked or terminated. The petitioner's grievance, as indeed it must also be the grievance of several other applicants, is that the delay in issuing the exemption certificate or any renewal in respect thereof prejudices it substantially for till it is granted the assessee would be bound to pay the advance tax and then seek refund. It is not clear as yet as to whether such an assessee would be entitled to any compensation including by way of interest during the period that the advance tax which ultimately is not payable is deposited with the authorities. The grievance is not without substance. It is, however, a matter which the respondents must in the first instance consider. We would request the respondents to consider addressing this grievance of the assessee in a fair and judicious manner.

For instance, the authorities may consider whether the exemption ought to be open-ended subject to the right to revoke the same and also insisting for information in the meantime. They may also consider whether the exemption certificate ought to be granted for a longer duration than for three months. It may also be possible to permit the parties to apply for the renewal well before the expiry date of the existing certificate and to direct the authorities to take a decision on such application, if any, before the expiry of the date of the existing certificate.

4. The writ petition is accordingly disposed of by requesting the authorities to consider what we have just said preferably within four weeks from today. The respondents are also directed to process the petitioner's application for the renewal certificate of advance tax exemption by 15.08.2015. The rights and contentions of the parties are kept open.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

27.07.2015
Amodh