IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 17072 of 2015

Date of Decision: 29.9.2015

M/s Akash Engineers, Jalandhar

....Petitioner.

Versus

State of Punjab and others

...Respondents.

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

PRESENT: Mr. Avneesh Jhingan, Advocate for the petitioner(s).

Mr. Jagmohan Bansal, Additional Advocate General, Punjab.

AJAY KUMAR MITTAL, J.

1. This order shall dispose of two petitions bearing CWP Nos. 17072 and 17074 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. 17072 of 2015.

2. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner(s) has prayed for issuance of a writ in the nature of certiorari for quashing the orders dated 8.4.2015 (Annexure P-4) and dated 11.5.2015 (Annexure P-6). Further, a writ of mandamus has been sought directing respondent No.2 to refund ₹ 5,19,459/- along with interest due to the petitioner vide order dated 10.10.2014 (Annexure P-2).

3. A few facts necessary for adjudication of the present writ petition as narrated therein may be noticed. The petitioner is engaged in

the business of manufacture and sale of Hand Tools etc. For the assessment year 2010-11, the petitioner filed the quarterly returns as well as the annual statement. The petitioner purchased raw material within the State of Punjab after payment of tax. The goods manufactured are sold in the course of interstate trade and commerce. The ITC is more than the output liability and, therefore, as per the return, the petitioner is entitled to a refund of ₹ 7,08,087/-. The assessing authority finalized the assessment vide order dated 4.4.2014 (Annexure P-1) and the petitioner was found entitled to refund of ₹ 3,16,738/-. The assessment order was rectified by the assessing authority-respondent No.2 vide order dated 10.10.2014 (Annexure P-2) under Section 29(8) of the Punjab Value Added Tax Act, 2005 (in short "the Act") holding the petitioner entitled to refund of ₹ 5,19,459/-. The petitioner vide application dated 28.11.2014 (Annexure P-3) applied for the said refund. The said application for refund was rejected on 3.3.2015 and the petitioner was informed about the same vide letter dated 8.4.2015 (Annexure P-4). A notice dated 16.4.2015 (Annexure P-5) under Section 29(8) of the Act was issued to the petitioner for production of original bills, bank statement and purchase voucher and for revision of the assessment order. Respondent No.2 vide order dated 11.5.2015 (Annexure P-6) reduced the refund to ₹ 3,63,726/-. Hence, the present writ petitions.

4. We have heard learned counsel for the parties.

5. It is not disputed by learned counsel for the parties that the refund has already been made to the petitioner(s). Further, it is the admitted position that the order dated 11.5.2015 (Annexure P-6) passed by the assessing authority is appealable. It is directed that in case an

appeal is filed by the petitioner(s) within a period of 30 days from the date of receipt of a certified copy of this order, the same shall be decided by the appellate authority on merits, in accordance with law and shall not be rejected on the ground of limitation.

6. Regarding interest, liberty is granted to the petitioner(s) to move a representation and in case any representation is filed within a period of four weeks from the date of receipt of the certified copy of the order, the same shall be decided by the concerned authority within six weeks thereafter. It is further directed that in case it is found that the petitioner(s) is/are entitled to the amount of interest, the same be paid to them within next two weeks.

7. The writ petitions stand disposed of accordingly.

(AJAY KUMAR MITTAL)
JUDGE

September 29, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**