IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 17790 of 2015

Date of Decision: 26.8.2015

M/s Durable Ceramics Pvt. Ltd., Kotkapura

....Petitioner.

Versus

The State of Punjab and another

...Respondents.

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

PRESENT: Mr. Sandeep Goyal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondent No.2 to refund the amount of tax paid in excess by the petitioner and as assessed by the assessing authority vide order dated 16.1.2015 (Annexure P-1).

2. The petitioner is engaged in the business of manufacturing and export of ceramic insulators and is also undertaking works contract being carried out at Focal Point, Kotkapura. It is registered with the Sales Tax Department vide TIN 0375244291. For the assessment year 2013-14, the petitioner filed all its quarterly returns in time along with the annual return in Form VAT-20. The assessment was framed by the Excise and Taxation Officer-cum-Designated Officer, Kotkapura vide order dated 16.1.2015 (Annexure P-1) for the year 2013-14 wherein excess ITC/ refund amounting to ₹ 1,33,83,948/- has been calculated.

In pursuance thereto, the petitioner applied for refund of the said amount by way of application dated 9.2.2015 (Annexure P-2) in Form VAT-29, but to no effect. Thereafter, the petitioner sent a legal notice dated 24.7.2015 to respondent No.2 for refund, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner moved an application dated 9.2.2015 (Annexure P-2) followed by legal notice dated 24.7.2015 (Annexure P-3) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing the Excise and Taxation Officer-cum-Assessing Authority to take a decision on the application dated 9.2.2015 (Annexure P-2) followed by the legal notice dated 24.7.2015 (Annexure P-3), 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. It is further directed that in case it is found that the petitioner is entitled to the amount of refund, the same be paid to it within next one month in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

August 26, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**