IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 18455 of 2015

Date of Decision: 2.9.2015

Prerna Strips, Bhankarpur, Derabassi

....Petitioner.

Versus

The State of Punjab and others

...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. 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 mandamus directing respondent No.3 to review the grant of exemption from payment of advance tax filed by the petitioner vide application dated 20.11.2014 (Annexure P-5).

2. The petitioner is a small scale industry and is engaged in the business of manufacturing of C.R. Strips for which H.R. Coil is purchased which is exigible to advance tax under Section 6(7) of the Punjab Value Added Tax Act, 2005 (in short “the Act”). The said goods manufactured are also stock transferred to other branches of the petitioner on which no tax was payable and as a result thereof, Input Tax Credit is getting accumulated to the petitioner. State of Punjab in the year 1999 introduced Punjab Tax on Entry of Goods into Local Areas Ordinance, 1999 which was later on converted into The Punjab Tax on

Entry of Goods into Local Areas Act, 2000 (Punjab Act No. 9 of 2000) enforced w.e.f. 6.4.2000. To implement the policy of the State, the entry tax was abolished by way of omission of items in the Schedule vide notification dated 1.4.2005 and the earlier notifications for the levy of tax were rescinded w.e.f. 1.4.2005 vide notification dated 1.4.2005. The Punjab Government vide notification dated 15.11.2007 re-introduced the levy of entry tax on certain items which had earlier been stopped in view of corporation of the Act. Various persons challenged the levy of entry tax and vires thereof by filing different writ petitions. This Court vide order dated 28.3.2011 passed in CWP No. 15378 of 2008 stayed the recovery of entry tax subject to certain compliances including the furnishing of undertaking and an affidavit to the effect that in case the writ petition is subsequently dismissed by this Court, then the said person would be liable to pay the entry tax along with interest. The benefit of the interim order was extended to other persons also including the petitioner by the State Government by issuing circulars dated 29.4.2011 and 17.5.2011. Subsequent to the interim order passed by this Court, the respondents have issued an Ordinance vide notification dated 2.11.2011 with retrospective effect from 21.11.2007 vide which the Entry Tax Act has been amended and definition of goods has been changed along with charging Section 3A. The tax has been levied on the entry of goods into local areas as referable to Entry 52 of List II of Seventh Schedule. A consolidated notification for the levy of entry tax was also issued on 18.9.2012. The State Government made amendments in the Act and inserted sub-sections (7) and (8) to Sections 6 and 13(1A) vide Punjab Ordinance dated 12.8.2011 w.e.f. 12.8.2011. A notification dated 4.10.2013 (Annexure P-2) was issued under Section

3A of the Entry Tax Act granting exemption to all taxable persons from the payment of entry tax on whom the tax was being charged vide notification dated 18.9.2011/2012. Simultaneously, notification dated 4.10.2013 (Annexure P-3) was issued under Section 6(7) of the Act notifying 30 goods for imposition of Tax. In pursuance thereto, the petitioner applied for exemption from the payment of tax which was granted vide certificate dated 20.6.2014 (Annexure P-4) for the period from 20.6.2014 to 19.12.2014. Thereafter, the petitioner applied for renewal of exemption on advance entry tax vide application dated 20.11.2014 (Annexure P-5) before respondent No.3, 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 has moved an application dated 20.11.2014 (Annexure P-5) before respondent No.3, 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 respondent No.3 to decide the application dated 20.11.2014 (Annexure P-5), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two weeks from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

September 2, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**