IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 20161 of 2015

Date of Decision: 29.9.2015

M/s HPL Additives Ltd., Bhagwanpur, Dera Bassi

....Petitioner.

Versus

The State of Punjab and others

...Respondents.

1. Whether the Reporters of the local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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

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

Mr. Jagmohan Bansal, Additional Advocate General, Punjab.

AJAY KUMAR MITTAL, J.

1. In this 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 unlock its TIN number. Further, a direction has been sought for declaring provisions of Section 62(5) of the Punjab Value Added Tax Act, 2005 (in short "the Act") as ultra vires qua providing of mandatory deposit of 25% of tax, interest and penalty as a condition precedent for hearing of appeal. A writ of mandamus has also been sought directing respondent No.2 to adjust the excess ITC towards 25% additional demand created for the assessment year 2008-09.

2. The petitioner is engaged in the business of manufacture and trading of chemicals. The petitioner had filed its returns for the year 2008-09 on quarterly basis in Form VAT-15 and annual statement. Respondent No.2 vide order dated 19.11.2014 (Annexure P-1) framed the assessment at ₹ 21,72,082/- under the Act and ₹ 1,57,36,473/- under the Central Sales Tax Act, 1956. Since the assessment was barred and Section 29 of the Act was amended, the petitioner filed CWP No. 1662 of 2015 challenging the vires of the amendment and the assessment order. This Court vide order dated 7.8.2015 (Annexure P-2) dismissed the said writ petition in terms of CWP No. 21811 of 2013. The petitioner filed two appeals on 28.8.2015 (Annexure P-3 Colly) before respondent No.3 against the order dated 19.11.2014 (Annexure P-1). An application dated 28.8.2015 (Annexure P-4) was moved by the petitioner before respondent No.2 for adjustment of 25% of the additional demand from the excess ITC. A notice dated 15.9.2015 (Annexure P-5) was issued to the petitioner to show cause as to why its TIN number be not locked for not depositing 25% of the demand for the assessment year 2008-09. The petitioner filed reply dated 16.9.2015 (Annexure P-6) to the said notice. Respondent No.2 blocked the TIN number of the petitioner on 16.9.2015 and its trucks were stopped at ICC on that account. The petitioner vide application dated 18.9.2015 (Annexure P-8) requested respondent No.2 for unlocking of TIN. Hence, the present writ petition.

3. We have heard learned counsel for the parties.

4. Learned State counsel submitted that the TIN has already been opened and this fact is not disputed by learned counsel for the petitioner.

5. Learned counsel for the petitioner submitted that the ITC to

the extent of 25% of the additional demand shall not be utilized till the appeal is decided in compliance with the provisions of Section 62(5) of the Act. This was accepted by the learned State counsel.

6. In view of the above, the present writ petition is disposed of and the parties shall remain bound by their respective statements.

(AJAY KUMAR MITTAL)
JUDGE

September 29, 2015
gbs

(RAMENDRA JAIN)
JUDGE