IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 21257 of 2015

Date of Decision: 5.10.2015

M/s J.S.R. Relators Pvt. Ltd., Gurgaon

....Petitioner.

Versus

The Assistant Commissioner, Designated Authority, VCES, Service Tax, Delhi-IV, Gurgaon and another

...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. Vikrant Kackria, Advocate and
Mr. Ankit Parti, 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 certiorari for quashing the order dated 11.3.2015 (Annexure P-7) passed by respondent No.1 and in the alternative to direct respondent No.1 to pass a speaking appealable order and reconsider the VCES application dated 30.12.2013 (Annexure P-2).

2. The petitioner is having Service Tax Registration No. AABCJ5246MST001 and was providing the service under the category of construction service. Inadvertently, the petitioner could not pay certain service tax for the period 1.4.2008 to 31.3.2012. The

Government vide notification dated 13.5.2013 framed Voluntary Compliance Encouragement Scheme, 2013 (in short “VCES”) (Annexure P-1) providing an option to the assessee to voluntarily declare their service tax amount and pay the same by a due date and apply to the designated authority. In pursuance thereto, the petitioner filed declaration dated 30.12.2013 (Annexure P-2) before respondent No.1. Thereafter, the petitioner received a letter dated 29.1.2014 (Annexure P-3) that it was not eligible to file the declaration under 'VCES' as investigation, enquiry or audit was pending against it as on 1.3.2013. It was mentioned in the said letter that the investigation had been initiated by Anti Evasion Branch of the Commissionerate on 31.11.2012 and the said investigation was pending as per the summons dated 14.3.2013 and 6.6.2013 (Annexure P-4). A show cause notice dated 23.10.2013 (Annexure P-5) was issued to the petitioner for the payment of service tax of ₹ 25,23,351/- for the period from 2008-09 to 2011-12. The petitioner filed reply dated 6.3.2014 (Annexure P-6) to the letter dated 29.1.2014 (Annexure P-3). Respondent No.1 vide order dated 11.3.2015 (Annexure P-7) rejected the application of the petitioner for the period from 2007-08 to 2011-12 but partially accepted the same for the period April, 2012 to December, 2012. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that respondent No.1 had erred in rejecting the VCES application filed by the petitioner inspite of the fact that it had fulfilled all the conditions as laid down in the Scheme. However, it was not disputed that the order, Annexure P-7, passed by respondent No.1 is appealable in view of the judgment of this Court in **Barnala Builders & Property Consultants v. Dy. CCE & ST,**

Dera Bassi, 2014(35) STR 65 (P&H).

4. We have heard learned counsel for the petitioner.

5. The petitioner has impugned order dated 11.3.2015 (Annexure P-7) passed by respondent No.1 in this writ petition which is an appealable order as held by this Court in **Barnala Builders & Property Consultants' case (supra).** It has been held that the order passed by the designated authority under VCES is an appealable order under Section 86 of the Finance Act, 1994.

6. In view of the above, the present writ petition is dismissed. It shall, however, be open to the petitioner to take recourse to the remedies as may be available to it in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

October 5, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**