

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 23404 of 2015

Date of Decision: 3.11.2015

M/s New Era Buildwell Pvt. Ltd., Gurgaon

....Petitioner.

Versus

The State of Haryana 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. Rajiv Agnihotri, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of 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 the respondents to refund the amount became due vide order dated 31.12.2013 (Annexure P-1) and for disposal of the application for refund dated 8.8.2014 (Annexure P-2) for the assessment year 2010-11 along with interest from the date of order till payment.

2. The petitioner is engaged in the manufacture and trading of stone grit. The assessment for the year 2010-11 was framed by respondent No.4 vide order dated 31.12.2013 (Annexure P-1) wherein refund of ₹ 33,86,758/- was allowed to the petitioner. The petitioner vide letter dated 8.8.2014 (Annexure P-2) requested respondent No.4 for

refund of the said amount. The Deputy Excise and Taxation Commissioner, Gurgaon (West) sent a letter dated 16.9.2014 (Annexure P-3) to the Joint Excise and Taxation Commissioner (Range), Gurgaon for approval of refund who sent a letter dated 18.9.2014 (Annexure P-4) recommending refund of the said amount to the Excise and Taxation Commissioner, Haryana, Panchkula. The petitioner received a show cause notice dated 10.3.2015 (Annexure P-5) from the Joint Excise and Taxation Commissioner (Range), Gurgaon taking the matter in suo moto to which it filed written submission dated 25.3.2015 (Annexure P-6). The revisional authority vide order dated 4.5.2015 (Annexure P-7) accepted the submission of the petitioner. However, no refund was made to the petitioner. Government of Haryana issued instructions dated 27.2.2006 (Annexure P-8) for payment of interest and fixing responsibility for delayed refunds. Vide notification dated 30.4.2013 (Annexure P-9) issued by the State of Haryana, the refund was to be recommended within 30 days before the time prescribed for issuing refund without interest lapses. Respondent No.2 vide memo dated 16.5.2013 (Annexure P-10) issued a detailed circular for approval of refund. However, till date no refund has been made to the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a letter dated 8.8.2014 (Annexure P-2) to respondent No.4, 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.4 to

take a decision on the letter dated 8.8.2014 (Annexure P-2), 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, the same be paid to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

November 3, 2015
gbs

(RAMENDRA JAIN)
JUDGE