

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 23775 of 2015

Date of Decision: 5.11.2015

M/s Brahmaputra Infrastructure Limited, Morinda

....Petitioner.

Versus

State of Punjab 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 HARI PAL VERMA.**

PRESENT: Mr. Avneesh Jhingan, 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 respondent No.2 to issue provisional refunds due amounting to ₹ 19,38,674/- for the quarter ending 30.6.2014; ₹ 15,65,110/- for the quarter ending 30.9.2014; ₹ 16,24,260/- for the quarter ending 31.12.2014 and ₹ 35,67,036/- for the quarter ending 31.3.2015 along with interest.

2. The petitioner is engaged in the business of works contract and is a registered dealer under the Punjab Value Added Tax Act, 2005 (in short "the Act") having TIN No. 03762021503. It filed quarterly returns for the quarters ending 30.6.2014 to 31.3.2015 and there were refunds due towards the petitioner. The petitioner applied for refunds vide applications dated 6.5.2015, 8.6.2015 and 14.7.2015 (Annexures P-

1 to P-4, respectively). Section 39 of the Act provides that where refund is due to a taxable person as per the returns furnished, 75% of the amount of refund would be made provisionally. When no action was taken on the said applications even the verification of TDS having been completed and the indemnity bond having submitted with the applications, the petitioner sent a reminders dated 6.10.2015 (Annexure P-5 Colly) to respondent No.2, 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 the applications, Annexures P-1 to P-4, respectively followed by the reminders dated 6.10.2015 (Annexure P-5 Colly) 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 respondent No.2 to take a decision on the applications, Annexures P-1 to P-4, respectively, followed by the reminders dated 6.10.2015 (Annexure P-5 Colly), 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 5, 2015
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(HARI PAL VERMA)
JUDGE