IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 24253 of 2015

Date of Decision: 19.11.2015

M/s J.K. Associates, Sangrur

....Petitioner.

Versus

Excise and Taxation Commissioner, Patiala 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. Manish Kumar Singla, 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 the respondents to refund for all the four quarters of 2014-15 to it, as claimed vide applications dated 24.8.2015 (Annexure P-5) and dated 19.10.2015 (Annexure P-9) along with all consequential benefits.

2. As per the averments made in the writ petition, the petitioner is a partnership firm carrying on the business of construction etc. mainly of roads in the State of Punjab. It is a registered dealer under the Punjab Value Added Tax Act, 2005 (in short "the Act") having TIN No. 03591000720. The petitioner has filed all its statutory quarterly returns

and also the annual return under the Act. Since the commencement of the Act, due to deduction of tax at source and input tax, credit tax available on the purchases made by the petitioner within the State of Punjab, the petitioner gets refund every quarter. The petitioner filed applications, Annexures P-1 to P-4, respectively, for issuance of provisional refund for the first three quarters, i.e. 1.4.2014 to 31.12.2014 and for the fourth quarter i.e. 1.1.2015 to 31.3.2015 on the basis of its quarterly VAT returns on Form VAT-29. As per Rule 52 of the Punjab Value Added Tax Rules, 2005 (hereinafter referred to as "the Rules"), the respondents did not issue the refund and assured the petitioner that the refund for the first quarter would be released in the last week of August, 2015. Accordingly, the petitioner submitted an application dated 24.8.2015 (Annexure P-5) for provisional refund of second, third and fourth quarters of 2014-15. However, respondent No.4 issued notices dated 24.8.2015 (Annexures P-6 to P-8, respectively) for the three quarters to the effect that the case for refund is under consideration and directed the petitioner to complete certain formalities. The petitioner had done the needful. Thereafter, the petitioner moved another application-cum-reminder dated 19.10.2015 (Annexure P-9) to respondent No.4 for issuance of provisional refund for all the four quarters of 2014-15. However, no refund was made to the petitioner within sixty days as prescribed in Rule 52(10) of the Rules. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has submitted an application dated 24.8.2015 (Annexure P-5) followed by another application-cum-reminder dated 19.10.2015 (Annexure P-9) 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.3 to decide the applications dated 24.8.2015 (Annexure P-5) and dated 19.10.2015 (Annexure P-9), 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 any amount is found payable to the petitioner, the same be released to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

November 19, 2015
gbs

(RAMENDRA JAIN)
JUDGE