IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 24968 of 2015

Date of Decision: 1.12.2015

ITC Limited, Gurgaon

....Petitioner.

Versus

Municipal Corporation, Gurgaon

...Respondent.

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

PRESENT: Mr. Anil K. Kher, Senior Advocate with
Mr. P.K. Khindria, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the instant 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 notices dated 26.3.2015 (Annexure P-6), dated 25.5.2015 (Annexure P-10), dated 22.7.2015 (Annexure P-13) and dated 31.10.2015 (Annexure P-16) issued under Section 130 of the Haryana Municipal Corporation Act, 1994 (in short "the Act") for recovery of property tax.

2. The petitioner was allotted a plot bearing No. 10, Institutional Area, Sector 32, Gurgaon vide allotment letter dated 20.12.1993 (Annexure P-2). Conveyance deed dated 22.12.2000 (Annexure P-1) was executed in favour of the petitioner by the Haryana Urban Development Authority (HUDA) vide conveyance deed dated 22.12.2000 (Annexure P-1). The petitioner has been paying property tax

etc. under the Self Assessment Scheme. The petitioner has raised a seven storey building on the said property including basement as per the plan sanctioned by the provisional Regulation 10 of the HUDA (Execution of Building) Regulation, 1979. Some part of the said property is used for the purposes of hospitality management institute. Urban Local Bodies Department, Haryana Government, issued a notification dated 11.10.2013 (Annexure P-3) under Section 87(3) read with Section 149 of the Act for imposing property tax on buildings and land within the limits of the concerned Municipal Corporation. The petitioner applied to the respondent in the category of Institutional Commercial and has filed the self assessment property tax returns after claiming rebate on 26.11.2013 in terms of the notification, Annexure P-3, for the period 2011-12 to 2013-14 (Annexure P-4 Colly). A letter dated 4.12.2013 (Annexure P-5) was sent by the petitioner to the respondent stating therein that it had filed the revised returns for the period 2010-11 to 2013-14 after claiming rebate in accordance with the notification dated 11.10.2013 (Annexure P-3). The respondent issued a notice dated 26.3.2015 (Annexure P-6) to the petitioner regarding property Id. No. 211C10U3-Old MC No. 211-10-3 situated at Plot No.10, Institutional Area, Sector 32, Gurgaon for the financial years 2010-11 to 2013-14 demanding a sum of ₹ 17,78,427/- as arrears of property tax. The petitioner vide letter dated 24.4.2015 (Annexure P-7) sent its objection and also submitted that it had made excess payment of ₹ 61,89,800/- and asked the respondent to refund the said amount after making an adjustment of ₹ 2,38,148/- as property tax for the financial year 2014-15. The petitioner filed return on 28.7.2014 (Annexure P-8) for the financial year 2014-15. A chart, Annexure P-9, showed the excess amount deposited by the petitioner with the respondent. The respondent issued a notice dated 25.5.2015 (Annexure P-10) under Section 130 of the Act demanding a sum of ₹ 63,84,147/- towards property tax assessment for the period from 2008-09 to 2014-15 and ₹ 25,33,146/- for the financial year 2015-16 including penalty and interest upto 31.5.2015. The petitioner vide letter dated 29.5.2015 (Annexure P-11) objected to the said notice and prayed for withdrawal of the said notice. The Urban Local Bodies Department, Haryana Government issued another notification dated 29.6.2015 (Annexure P-12) by making certain amendments in the notification dated 11.10.2013 (Annexure P-3). The Zonal Taxation Officer IV, Municipal Corporation Gurgaon vide its letter dated 22.7.2015 (Annexure P-13) directed the petitioner to pay the property tax on the rates approved for private office building in terms of notification dated 11.10.2013 as the property in question was being used for private office and to pay the arrears on or before 31.8.2015 as per notification dated 29.6.2015 (Annexure P-12). On receipt of the said notice dated 22.7.2015 (Annexure P-13), the petitioner sent a letter dated 31.8.2015 (Annexure P-14) to the respondent for withdrawal of the notice and to give an opportunity of personal hearing. The petitioner also deposited a sum of ₹ 46,73,619/- under protest as property tax on 31.8.2015. Thereafter, the respondent issued a notice dated 31.10.2015 (Annexure P-16) under Section 130 of the Act to the petitioner raising a demand of ₹ 21,71,100/- towards property tax assessment for the period 2008-09 to 2015-16. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the relief claimed in the writ petition, the petitioner has sent a letter dated 31.8.2015 (Annexure P-14) to the respondent, but no action has so far

been taken thereon.

4. After hearing learned counsel for the petitioner, the present writ petition is disposed of by directing the respondent to take a decision on the letter dated 31.8.2015 (Annexure P-14), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of two months from the date of receipt of a certified copy of this order.

(AJAY KUMAR MITTAL)
JUDGE

December 1, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**