IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 27012 of 2015

Date of Decision: 23.12.2015

M/s Gupta Foods, Tarn Taran

....Petitioner.

Versus

The State of Punjab 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. Girish Agnihotri, Senior Advocate with
Mr. Rajiv Agnihotri, 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 adjudicate upon the submissions dated 11.12.2015 (Annexure P-2) before executing the notice dated 3.12.2015 (Annexure P-1) threatening to lock Tax Identification Number (TIN) of the petitioner under Rule 51 of the Punjab VAT Rules, 2005 (in short “the Rules”) without any further notice. Further, a prayer has been made for quashing the notice dated 3.12.2015 (Annexure P-1).

2. The petitioner is engaged in the business of trading and

milling of paddy and is having TIN No. 03642046983. It has been filing its returns regularly, copies of annual returns for the financial years 2013-14 and 2014-15 are Annexure P-5 (Colly) and paying the tax in accordance with the returns, copies of details showing the tax deposit in these years are Annexure P-6 (Colly). For the assessment years 2012-13, 2013-14 and 2014-15, the petitioner was entitled for refund. As per assessment order No.4 dated 30.1.2015 (Annexure P-4), an amount of ₹ 40,80,289/- for the assessment year 2012-13 and 75% refund amounting to ₹ 85,94,130/- for the assessment years 2013-14 and 2014-15 and as such the petitioner applied for refund. However, respondent No.4 vide notice dated 3.12.2015 (Annexure P-1) threatened to lock TIN number of the petitioner under Rule 51A of the Rules without any further notice. The petitioner filed written submissions dated 11.12.2015 (Annexure P-2) to the notice intimating that it is entitled to refund for the assessment years 2012-13, 2013-14 and 2014-15. It applied for refund on 26.11.2015 along with Form VAT-29 and indemnity bond (Annexure P-3 Colly). However, no response has been received till date. Rather, the TIN number of the petitioner was threatened to be locked. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has filed reply dated 11.12.2015 (Annexure P-2) and submitted Form VAT-29 and indemnity bond (Annexure P-3 Colly), 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 reply dated 11.12.2015 (Annexure P-2) and Form

VAT-29 and indemnity bond (Annexure P-3 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 before proceeding further against the petitioner, if required, in the matter.

(AJAY KUMAR MITTAL)
JUDGE

December 23, 2015 **(RAMENDRA JAIN)**
gbs **JUDGE**