IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6062 of 2015
Date of decision: 07.04.2015

M/s. Aggarwal Construction Co. ...Petitioner(s)

Versus

State of Punjab and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. J.S. Bedi, Advocate, for the petitioner.

Mr. Jagmohan Bansal, Addl. A.G., Punjab.

S.J. VAZIFDAR, A.C.J. (Oral)

The petitioner has sought a writ of mandamus directing the respondents to issue a letter to the concerned department for making deduction at the lower rate as per a certificate issued by the Excise and Taxation Department. In effect, the petitioner challenges an order/communication dated 01.10.2014 passed by the Assistant Excise and Taxation Commissioner, Kapurthala-respondent no. 4 to the Executive Engineer, PWD stating that a certificate had been issued to the petitioner regarding 2% exemption but the same had been withdrawn; that the petitioner had filed an appeal which was disposed of by remanding the matter to be disposed of by passing a speaking order and the speaking order in this case "is being passed in near future". Respondent no. 4, therefore, stated that 6% TDS may be deducted on the job work conducted by the petitioners for the PWD and directed the deposit of the same in the office of respondent no. 4 so that there is no loss to the revenue. Respondent no. 4

stated that failure to do so would make the Executive Engineer PWD liable for the consequences.

In view of this letter, the PWD informed the petitioners about the said orders vide communication dated 01.10.2014.

Counsel for the State, on instructions from Mr. Tirath Chand, ETO, Kapurthala, states that no speaking order has in fact been passed till date. The order in existence is the one dated 22.02.2011 passed by the Excise and Taxation Officer, Kapurthala. The order concludes by stating "in view of the above affect, a certificate to deduct the 2% TDS is granted till further orders."

In view of the fact that no contrary order had been passed, this certificate is valid and binding as on date. In the event of the same being varied, it would be a different matter altogether.

The writ petition is accordingly disposed of by declaring that the certificate dated 22.02.2011 is in force as on date but shall be subject to any further orders that may be passed.

No order as to costs.

(S.J. VAZIFDAR)
JUDGE

(G.S. SANDHAWALIA)
JUDGE

07.04.2015
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