IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 1867 of 2016

Date of Decision: 29.1.2016

M/s Tilak Ram Babu Ram Pvt. Ltd., Tohana

....Petitioner.

Versus

State of Haryana 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 MRS. JUSTICE RAJ RAHUL GARG.

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 refund of ₹ 2,48,08,585/- along with interest due for the assessment year 2013-14.

2. The petitioner is engaged in the business of Cotton Grinning and Trading and is a registered dealer under the Punjab Value Added Tax Act, 2005 (in short "the Act") having TIN No. 06091401701. It filed quarterly return for the quarter ending 30.6.2013 to 31.3.2014 and there was refund due towards the petitioner. Vide applications dated 15.12.2014 (Annexure P-1 Colly), the petitioner applied for refund in Form VAT-A4. The petitioner purchases goods in the State of Haryana

and the said goods suffered tax at a higher rate than 2%. The goods were sold in interstate sales and the transactions were subjected to 2% tax. The petitioner sent a reminder dated 11.9.2015 (Annexure P-2) to respondent No.3 for provisional refund for the quarter ending 30.6.2013 to 31.3.2014, but all in vain. The petitioner filed CWP No. 23493 of 2015 and this Court vide order dated 3.11.2015 (Annexure P-3) directed respondent No.2 to take a decision on the applications dated 15.12.2014 within a period of one month and directed to pay the amount in case the petitioner was found entitled to. The assessing authority vide order dated 18.11.2015 (Annexure P-4) for the assessment year 2013-14 found the petitioner entitled to refund of ₹ 2,48,08,585/-. The petitioner applied for refund vide application dated 3.12.2015 (Annexure P-5) to the Excise and Taxation Minister, Government of Haryana, Panchkula with copies to the respondents, but to no effect. Thereafter, the petitioner sent a reminder dated 25.12.2015 (Annexure P-6) to respondent No.3, 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 an application dated 3.12.2015 (Annexure P-5) followed by a reminder dated 25.12.2015 (Annexure P-6) to respondent No.3, 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 application dated 3.12.2015 (Annexure P-5) followed by a reminder dated 25.12.2015 (Annexure P-6), 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 by the respondents within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

January 29, 2016 **(RAJ RAHUL GARG)**
gbs **JUDGE**