IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6224 of 2016

Date of Decision: 4.4.2016

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 MRS. JUSTICE RAJ RAHUL GARG.

PRESENT: 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 make refund as per the assessment order dated 30.1.2015 (Annexure P-1) along with interest from the date of deposit and to adjudicate upon the submissions/letters dated 11.12.2015 (Annexure P-2A) and dated 16.3.2016 (Annexure P-8) under Section 40 of the Punjab Value Added Tax Rules, 2005 (in short “the Rules”).

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 and paying the tax in

accordance with the returns. For the assessment year 2012-13, the petitioner was entitled for refund. As per assessment order No.4 dated 30.1.2015 (Annexure P-1), the petitioner was entitled to an amount of ₹ 40,80,289/- for the assessment year 2012-13 and as such the petitioner applied for refund in VAT Form-29 dated 17.7.2015 (Annexure P-2). When no response was received, the petitioner made written submissions dated 11.12.2015 (Annexure P-2A) to respondent No.2 for refund. As per the assessment order, Annexure P-1, the petitioner had applied for refund 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 in Form VAT-29 along with indemnity bond on 26.11.2015 (Annexure P-3 Colly). However, respondent No.4 issued a notice dated 3.12.2015 (Annexure P-4) for recovery of the purchase tax upto October 2015-16 and threatened to lock TIN number of the petitioner under Rule 51A of the Rules without any further notice. The petitioner filed its returns (Annexure P-5 Colly) for the financial years 2013-14 and 2014-15 and deposited the tax for these years as is discernible from the details (Annexure P-6 Colly). The petitioner filed CWP No. 27012 of 2015 and this Court vide order dated 23.12.2015 (Annexure P-7) directed respondent No.4 to take a decision on the reply dated 11.12.2015 (Annexure P-2A) and Form VAT-29 and indemnity bond (Annexure P-3 Colly). Thereafter, the petitioner filed submission/ letter dated 16.3.2016 (Annexure P-8) to respondent No.3 for issuance of refund order, 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 filed submission/letter

dated 16.3.2016 (Annexure P-8) 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.3 to take a decision on the submission/letter dated 16.3.2016 (Annexure P-8), 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 certified copy of the order. It is further directed that in case it is found that the petitioner is entitled to the amount of refund, the same be paid to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

April 4, 2016 **(RAJ RAHUL GARG)**
gbs **JUDGE**