IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 6800 of 2016

Date of Decision: 11.4.2016

M/s Oasis Technocons Limited, Chandigarh

....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. R.K. Girdhar, 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 refund the amount of excess Input Tax Credit (ITC) to the petitioner in terms of order dated 4.1.2016 (Annexure P-1) passed by respondent No.5 along with interest @ 12% per annum.

2. The petitioner is A-Class Government Contractor and is a registered dealer under the Punjab Value Added Tax Act, 2005 (in short “the Act”) having TIN No. 03672032756. The petitioner has filed all its statutory quarterly returns and also the annual return under the Act.

During the scrutiny of returns/VAT-20, it was found that the petitioner had not filed true and correct returns and had claimed and availed deductions on account of labour and services out of total declared work done. The respondent-department initiated the assessment proceedings against the petitioner under Section 29(2) of the Act. On receipt of the notice, the petitioner produced all the requisite records including TDS certificate and details of Form VAT-28 for the year 2013-14, bills etc. Respondent No.5 vide order dated 4.1.2016 (Annexure P-1) held the petitioner entitled for refund of excess ITC amounting to ₹ 1,38,86,847/-. The petitioner submitted an application dated 17.2.2016 (Annexure P-2) for refund of the amount along with VAT-29 Form. Thereafter, the petitioner also submitted a number of applications for refund of the excess ITC amount, but to no effect. Accordingly, the petitioner served a legal notice dated 16.3.2016 (Annexure P-3) upon the respondents for the payment of refund amounting to ₹ 1,38,86,847/- along with interest, in view of the order dated 4.1.2016 (Annexure P-1), 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 sent a legal notice dated 16.3.2016 (Annexure P-3) to the respondents, 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.5 to take a decision on the legal notice dated 16.3.2016 (Annexure P-3), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of six weeks from

the date of receipt of certified copy of the order. It is further directed that in case any amount is found payable to the petitioner, the same be released to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

April 11, 2016 **(RAJ RAHUL GARG)**
gbs **JUDGE**