IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8321 of 2016

Date of Decision: 3.5.2016

M/s Ashish Kumar & Co., L-1, Sonepat

....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. 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 refund the amount claimed vide submission/letter dated 21.4.2015 (Annexure P-5) became due as per order dated 15.9.2014 (Annexure P-4) passed by this Court for the assessment year 2001-02 along with interest from the date of payment till its refund.

2. The petitioner is engaged in the business of trading of Indian Made Foreign Liquor (IMFL). The Assessing Authority framed the assessment for the year 2001-02, vide assessment order dated 14.10.2002 (Annexure P-1). Subsequently, the case was taken in

revision under Section 40 of the Haryana General Sales Tax Act, 1973 and vide order dated 10.9.2007 (Annexure P-2), additional demand was created against the petitioner. Feeling aggrieved, the petitioner filed an appeal before the Haryana Tax Tribunal (in short "the Tribunal") and on the direction of the Tribunal, deposited the additional demand. The Tribunal vide order dated 29.11.2011 (Annexure P-3) rejected the appeal. Against the order, Annexure P-3, the petitioner filed VATAP No. 79 of 2013 and this Court vide a common order dated 15.9.2014 (Annexure P-4) passed in VATAP No.60 of 2013 decided question No. (ii), i.e. "whether on the facts and circumstances of the case, the Ld. Tribunal was justified in upholding the order of the Ld. Revisional Authority wherein he has raised the demand on account of undue enrichment despite the fact that the appellant did not charge any tax from its customers in the invoices" in favour of the petitioner. Thereafter, the petitioner filed written submission dated 21.4.2015 (Annexure P-5) to respondent No.3 for issuance of refund amount as per the order, Annexure P-4, 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 written submission dated 21.4.2015 (Annexure P-5) 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.4 to take a decision on the submission dated 21.4.2015 (Annexure P-5), 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

May 3, 2016
gbs

(RAJ RAHUL GARG)
JUDGE