IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 13348 of 2017

Date of Decision: 2.6.2017

M/s Suman Villas Pvt. Ltd., Jhajjar

....Petitioner.

Versus

State of Haryana and another

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU.

PRESENT: Mr. Sandeep Goyal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant 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 certiorari for quashing the notices (Annexures P-1 and P-2, respectively) for the assessment years 2010-11 and 2011-12. Further, a writ of prohibition has been sought directing respondent No.2 not to proceed with the assessment proceedings initiated vide notices (Annexures P-1 and P-2, respectively) for the assessment years in question.

2. A few facts necessary for adjudication of the present writ petition as narrated therein may be noticed. The petitioner is a real estate developer engaged in the business of construction of flats and villas. It had received notices (Annexures P-1 and P-2, respectively) for the assessment years 2010-11 and 2011-12 under Section 16 of the Haryana Value Added Tax Act, 2003 (in short "the Act") being an unregistered dealer. As per Section 16 of the Act, the assessment of an unregistered dealer can be

framed within three years (now six years) from the end of the financial year. In the present case, the period of three years for the assessment years 2010-11 and 2011-12 had expired on 31.3.2014 and 31.3.2015, respectively. Therefore, the assessment could not be framed. However, the notices were issued directing the petitioner to appear on 9.2.2017 and by that time, the period of limitation had expired. On 3.8.2015, The Act introduced one amendment by way of an Ordinance (Annexure P-3) which was later on replaced with an Act dated 21.9.2015 (Annexure P-4) whereby the limitation period contained in Section 16 of the Act had been extended from three years to six years from the end of the year. The said amendment came into force from 3.8.2015 and, therefore, was prospective in nature. Hence, the present writ petition.

4. We have heard learned counsel for the petitioner.

5. The writ-petitioner have challenged the notices (Annexure P-1 and P-2, respectively) issued by respondent No.2 on the ground that the same was beyond limitation. It was urged that the notices having been issued without jurisdiction being beyond limitation, the proceedings pursuant thereto could not continue.

6. From the perusal of the writ petition, we find that the petitioner on receipt of the notices (Annexures P-1 and P-2, respectively) had filed the writ petition in this Court challenging the same to be without jurisdiction. The petitioner had neither filed any objection/reply to the said notices nor raised the pleas as have been raised in the instant writ petition before the competent authority.

7. At this stage, we do not find any justifiable reason to interfere with the notices under challenge. However, we clarify that the proper

course of action for the noticee is to file a detailed and comprehensive objection/reply and to raise all the pleas as have been raised in the writ petition. In case any objection/reply is filed by the petitioner within a period of two weeks from the date of receipt of the certified copy of the order, respondent No.2 shall decide the same within a period of six weeks from the date of receipt of the objection/reply in accordance with law after affording an opportunity of hearing to the petitioner and by passing a speaking order before proceeding further in the matter.

8. The writ petition stands disposed of accordingly.

9. It is, however, made clear that in case the petitioner has any grievance after the order is passed by concerned authority, it shall be open to the petitioner to take recourse to the remedies as may be available to it in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

June 2, 2017
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking/Reasoned **Yes**

Whether Reportable **Yes**