IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 14868 of 2017

Date of Decision: 12.7.2017

M/s Jyothy Consumers Products Ltd., Rohtak

....Petitioner.

Versus

The State of Haryana and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AMIT RAWAL.

PRESENT: Mr. Rishab Singla, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. Through the 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.3 to issue Refund Adjustment Order of ₹ 21,88,900/- found refundable while passing the assessment order dated 27.3.2015 (Annexure P-3) for the year 2011-12 after due verifications.

2. The petitioner was earlier known as 'The Calcutta Chemical Company Ltd.' which was incorporated on 29.9.2016 under the Indian Companies Act VII of 1913. Thereafter, the name of the company was changed to 'Henkel India Limited' vide Certificate of Incorporation for Change of Name dated 24.8.2004 (Annexure P-1). Subsequent to the aforesaid change, the name of the company was changed to 'Jyothy Consumer Products Ltd.' vide certificate dated 24.8.2012 (Annexure P-2). The petitioner company is engaged in the business of trading of toilet goods

and detergents etc. having TIN No. 0617282998. For the assessment year 2011-12, the petitioner filed all its quarterly returns in time along with the annual return in Form VAT R-2. The said returns were taken up in scrutiny and notice was served upon the petitioner. The assessment was framed by the Assessing Authority-respondent No.3 vide order dated 27.3.2015 (Annexure P-3) calculating an excess of ₹ 21,88,900/- after carrying forwarding ₹ 7,60,809/- on account of closing stock. The petitioner applied for Refund Adjustment Order vide application dated 21.4.2015 (Annexure P-4) to respondent No.3. In response thereto, a notice dated 11.5.2015 was issued to the petitioner to explain the discrepancies found by it in the purchases and sales of one of the sellers. Thereafter, another notice dated 15.6.2015 was issued to the petitioner to explain the said discrepancies. The petitioner filed reply dated 25.6.2015 to the said notices explaining all the discrepancies pointed out by respondent No.3. However, no Refund Adjustment Order was issued by respondent No.3. Thereafter, the petitioner sent reminders (Annexure P-5 Colly) and email dated 22.9.2016 (Annexure P-6) to respondent No.3 for issuance of Refund Adjustment 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 moved an application dated 21.4.2015 (Annexure P-4) followed by the reminders (Annexure P-5 Colly) 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 application dated 21.4.2015 (Annexure P-4) followed by

the reminders (Annexure P-5 Colly), 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 of refund, the same be paid to it within next one month in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

July 12, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned **Yes**

Whether Reportable **No**