IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-17067-2017

Date of Decision: 2.8.2017

M/s SAM (India) Builtwell Pvt. Ltd., Mohali

....Petitioner.

Versus

State of Punjab and another

...Respondents.

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

PRESENT: Mr. Jagmohan Bansal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of 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.2 to decide the refund applications dated 3.10.2016 (Annexures P-2 and P-4, respectively).

2. The petitioner is engaged in the business of construction. For the purpose of construction activities, the petitioner was required to purchase a number of inputs. During the period 2013-14 and 2014-15, it purchased duty paid inputs, i.e. paid tax at the time of purchase of inputs. The contractee deducted Works Contract Tax (WCT). The payment of Value Added Tax (VAT) at the time of purchase of inputs and deduction of WCT @ 6% resulted into excess inputs tax credit than output liability. During 2013-14, the petitioner made aggregate sale of goods amounting to ₹ 18,09,43,916/- and was liable to pay tax on the said sale to the tune of

₹ 1,79,05,253/-. The petitioner filed its quarterly returns as well as annual return i.e. VAT-20 (Annexure P-1). The petitioner during the said period purchased inputs involving input tax credit of ₹ 95,81,153/- and the contractee deducted WCT amounting to ₹ 1,36,32,717/-. It also paid Entry Tax of ₹ 76,580/-. The payment of tax on inputs purchased within State, TDS and Entry Tax, totalling input tax credit of ₹ 2,32,90,450/-. The output liability of the petitioner was ₹ 1,79,05,253/- whereas the petitioner had already paid total tax of ₹ 2,32,90,450/- and this resulted into excess payment of ₹ 53,85,197/-. The petitioner moved an application dated 3.10.2016 (Annexure P-2) for refund of the excess credit to respondent No.2. Similarly, during 2014-15, the petitioner paid tax on inputs, advance tax and the contractee deducted WCT. During this period, the petitioner was liable to pay output tax to the tune of ₹ 5,34,66,496/- and was eligible to input tax credit of ₹ 8,23,05,418/-. Therefore, the petitioner paid excess tax of ₹ 2,88,38,922/-. The petitioner also filed quarterly returns as well as annual return (Annexure P-3) during this period as well. Thereafter, the petitioner moved an application dated 3.10.2016 (Annexure P-4) to respondent No.2 for refund of the excess credit, 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 the applications dated 3.10.2016 (Annexures P-2 and P-4, respectively) to respondent No.2, 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.2 to take

a decision on the applications dated 3.10.2016 (Annexures P-2 and P-4, respectively), 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 the petitioner is found entitled to the amount of refund, the same be released to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

August 2, 2017 **(AMIT RAWAL)**
gbs **JUDGE**

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No