IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-19563-2017

Date of Decision: 31.8.2017

M/s Deutsche Motoren Pvt. Ltd., New Delhi

...Petitioner

Versus

State of Haryana and others

...Respondents

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

PRESENT: Mr. Vikas Mohan Gupta, 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 tax earlier collected along with interest which was declared to be illegal in view of the order dated 3.8.2016 (Annexure P-7).

2. The petitioner purchased industrial Plot No.1, Sector 27-B, Faridabad vide transfer letter dated 2.2.2011 (Annexure P-1). The said plot consisted of basement being used for storage, ground floor for workshop and first and second floor were lying vacant except very nominal area to be used for incidental purposes of workshop. The petitioner deposited the property tax for the years 2012-13 and 2013-14 on 20.3.2014 with respondent No.2. A notice dated 9.7.2014 was issued to the petitioner to show cause as to why property tax of ₹ 27 lakhs per year be not levied. The

petitioner submitted a reply to the said show cause notice. Accordingly, the respondent-Corporation issued a notice dated 13.3.2015 (Annexure P-2) to the petitioner for the recovery of the property tax. Respondent No.4 vide letter dated 6.8.2015 (Annexure P-3) called upon the petitioner to provide basic calculations of the alleged tax to be imposed. Respondent No.4 vide order dated 29.2.2016 (Annexure P-4) assessed the total property tax at ₹ 1,06,43,464/- which included ₹ 53,21,732/- as balance payment of house tax and ₹ 53,21,732/- as penalty. Further, respondent No.4 vide order dated 13.5.2016 (Annexure P-5) ordered for the attachment of the plot and building constructed thereon. Vide receipt dated 27.6.2016 (Annexure P-6), the petitioner deposited a sum of ₹ 1,12,82,071/- under protest. Against the order, Annexure P-4, the petitioner filed an appeal before respondent No.3 who vide order dated 3.8.2016 (Annexure P-7) accepted the appeal and set aside the order assessing the property tax. The petitioner moved various representations/reminders (Annexure P-8 Colly) to respondent No.2 for refund of the amount along with interest, but to no effect. Thereafter, the petitioner sent a legal notice dated 17.2.2017 (Annexure P-9) to respondent No.2 for refund of the amount along with interest, 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 representations/ reminders (Annexure P-8 Colly) followed by a legal notice dated 17.2.2017 (Annexure P-9) 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 representations/reminders (Annexure P-8 Colly) and the legal notice dated 17.2.2017 (Annexure P-9), 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 the certified copy of the order. It is further directed that in case the petitioner is found entitled to the refund of the amount, the same be released to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

August 31, 2017 **(AMIT RAWAL)**
gbs **JUDGE**

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**