**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 2755 of 2017
Decided on : 02.08.2017**

M/s Pioneer Urban Land & Infrastructure Ltd.

. . . 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. Sandeep Goyal, Advocate
for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

Mr. Suvir Kumar, Advocate
for respondent No.3.

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AJAY KUMAR MITTAL, J. (Oral)

In this writ petition filed under Articles 226/227 of the Constitution of India, challenge is to the notice dated 09th February, 2017 (Annexure P-18), passed by respondent No.2, being contrary to the Haryana Alternative Tax Compliance Scheme for Contractors, 2016 (in short 'the Scheme'), dated 12.09.2016, appended as Annexure P-11, as it seeks to demand tax on the amount which relates to the turnover relatable to another developer-respondent No.3, with whom the petitioner had made the joint development agreement dated 04.11.2000 (Annexure P-2). A further prayer has also been made for direction to the respondents to accept the application of the petitioner in Form TC-1 dated 11.12.2016 (Annexure P-12), which is stated to be made in compliance of the aforesaid Scheme.

2. Written statement on behalf of respondent No.3 has been filed in Court today, which is taken on record, subject to all just exceptions. A copy thereof has been handed over to the learned counsel for the petitioner.

3. Learned State counsel emphasized that the petitioner has alternative remedy as per clause 9(2) of the Haryana Alternative Tax Compliance Scheme for Contractors, 2016 (in short 'the Scheme'), whereby, the petitioner can approach the Excise and Taxation Commissioner, Haryana by way of representation, in case he has any dispute or ambiguity as regards the impugned order. Clause 9(2) reads thus:-

> *"9(2) in case of any ambiguity or dispute arising out of this Scheme, the decision of the Excise and Taxation Commissioner, Haryana thereon shall be final."*

4. During the course of arguments, learned State counsel strenuously contended the aforesaid alternative remedy has not been availed by the petitioner.

5. After hearing learned counsel for the parties, perusing the petition and without expressing any opinion on the merits of the controversy, we find that certain facts are required to be gone established, therefore, we refrain from exercising writ jurisdiction under Articles 226/227 of the Constitution of India and relegate the petitioner to avail the alternative remedy by way of approaching the Excise and Taxation Commissioner, Haryana. Accordingly, the writ petition is disposed of with liberty to the petitioner to file the representation as per Clause 9(2) of the Scheme before the Excise and Taxation Commissioner, Haryana, within a period of one month from today. In case such representation is filed by the petitioner, the same shall be decided by the Excise and Taxation

Commissioner, Haryana, within a period of next one month thereafter, after affording an opportunity of hearing to the petitioner and by passing a speaking order, in accordance with law.

6. Needless to say that it shall be open to the petitioner to take all the pleas before the Excise and Taxation Commissioner, as sought to be raised in the present writ petition or available with it, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

August 02, 2017
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*