
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

Civil Writ Petition No.28378 of 2017
Date of decision: December 13, 2017

M/s Lotus Realtech Pvt. 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.

******

AJAY KUMAR MITTAL, J. (Oral)

1. In this writ petition filed under Articles 226/227 of the Constitution of India, challenge is to the order dated 10.11.2017 (**Annexure P-14**), passed by respondent No.3, being contrary to the Haryana One Time Settlement Scheme for Recovery of Outstanding Dues, 2017 (in short 'the Scheme'), appended as Annexure P-8. Further prayers have also been made to direct the respondents to accept the one time settlement amount furnished by the petitioner in pursuance to the aforesaid Scheme and to keep further proceedings in respect of assessment years from 01.04.2014 to 31.03.2017 in abeyance as the petitioner-Firm has already deposited the entire amount in accordance with the aforesaid Scheme.

2. Learned counsel for the petitioner has not disputed the fact that the petitioner has alternative remedy as per clause 8 of the Haryana Alternative Tax Compliance Scheme for Contractors, 2016 (in short 'the 2016 Scheme') which reads thus:-

> *"8 **(1)** In the event of acceptance of the Form by the Deputy Excise and Taxation Commissioner, the contractor shall, within fifteen days of the date of acceptance, make an application to withdraw all appeals, writ petitions and/or cases pending before any Authority or Court of law. Similarly, any Authority under the Act shall keep all proceedings against the contractor in abeyance and such pending cases on final payment of the entire liability shall become infructuous.*
>
> ***(2)*** *In the event of failure of the contractor to withdraw the cases as above subsequent to the acceptance of his Form, his Form shall be deemed to have been rejected and the proceeding held in abeyance shall be finalized in accordance with law. The amount deposited by him under this Scheme shall stand forfeited.*
>
> *Provided that the time period lost on account of proceeding under this scheme shall be excluded in computing the period of limitation specified under the Act, to finalize the proceedings kept in abeyance under this Scheme."*

3. After hearing learned counsel for the petitioner, perusing the petition and without expressing any opinion on the merits of the controversy, we find that certain facts are required to be 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 avail remedy as per Clause 8 of the 2016 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.

4. 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

December 13, 2017
sonia gugnani

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No