IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 9086 of 2017

Date of Decision: 1.5.2017

M/s A.K. Motors Private Limited, Gurgaon

....Petitioner.

Versus

State of Haryana and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.

PRESENT: Ms. Promila Nain, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the demand notice dated 3.4.2017 (Annexure P-13) issued by respondent No.3, pursuant to which its premises were sealed and subsequently desealed requiring the petitioner to deposit ₹ 10 lakhs under protest, with a further direction to deposit the remaining property tax of ₹ 53,60,000/- on or before 30.4.2017. Further, a writ of mandamus has been prayed directing the respondents to determine the property tax liability of the petitioner as per the notifications dated 11.10.2013 (Annexure P-2) and dated 29.6.2015 (Annexure P-3). Also a direction has been sought to the respondents to refund the excess amount of ₹ 6,54,698/- already paid to respondent No.2.

2. The petitioner has been running its industrial unit on Plot No.

554, Sector 37, Pace City II, Gurgaon allotted by the Haryana Urban Development Authority as an industrial plot. Earlier the petitioner was running project of sweaters and readymade garments and subsequently the said project was changed to Auto Mobile Service Station including repair and service of vehicles and other related service after getting permission from the Estate Officer, HUDA-I, Gurgaon vide letter dated 29.1.2009 (Annexure P-1). Government of Haryana vide notification dated 11.10.2013 (Annexure P-2) prescribed the different rates of property tax for residential, commercial, industrial and institution properties etc. to be imposed by the Municipal Corporations in AI cities of Gurgaon and Faridabad and A2 cities of Ambala, Panchkula, Karnal, Panipat, Rohtak, Hisar and Yamuna Nagar. Government of Haryana issued another notification dated 29.6.2015 (Annexure P-3). The total area of the plot of the petitioner is 7888 square yards and is an industrial plot which was treated as commercial for the purpose of property tax liability. A notice dated 27.5.2015 (Annexure P-4) was issued to the petitioner for recovery of property tax under the self assessment policy amounting to ₹ 29,15,213/- (₹ 28,62,413/- for the period 2008-09 to 2014-15 and ₹ 52,800/- for the financial year 2015-16) including penalties and interest. Vide notice dated 16.9.2015 (Annexure P-5), a sum of ₹ 24,68,813/- were shown as arrears before 2010-11, ₹ 1,39,74,735/- for 2014-15 and ₹ 48,06,339/- for 2015-16 and after rebate upto 30.9.2015, a total sum of ₹ 1,22,18,594/- was payable. As per approval order dated 25.9.2013 (Annexure P-5A) issued by the Chief Minister of Haryana, vehicle Display Sale-cum-Service Centre is allowed to be an industrial zone and special permission was given for them to be on agricultural land with permission of CLU. The petitioner deposited the property tax of

₹ 1,65,690/- and ₹ 2,07,375/- vide receipts dated 24.9.2015 (Annexure P-6) and dated 30.9.2015 (Annexure P-7), respectively. Thereafter, another notice dated 23.12.2015 (Annexure P-8) was received by the petitioner for depositing the balance tax of ₹ 2,08,09,669/-. The petitioner submitted reply dated 26.12.2015 (Annexure P-9) to the said notice, but to no effect. Another notice dated 28.1.2017 (Annexure P-10) was issued to the petitioner creating total liability of property tax amounting to ₹ 2,53,85,565/- including the current financial year. The petitioner was sent another bill for ₹ 1,89,71,714/- for the year showing total arrears upto 31.3.2016 and raising further demand of ₹ 16,15,575/-, total amounting to ₹ 2,07,48,848/-. After waiving of 25% rebate and interest, the amount payable was ₹ 1,02,98,078/- to be paid upto 31.3.2017. The petitioner submitted reply, Annexure P-12, to respondent No.3. Thereafter, the petitioner received e-mail dated 3.4.2017 (Annexure P-13) from respondent No.3 to deposit a sum of ₹ 1,02,98,078/- as property tax. As per the bills (Annexure P-14), the respondents are treating the petitioner as industrial units. The officials of the respondents sealed the premises of the petitioner on 20.4.2017 and affixed the notices (Annexure P-15) thereon. The petitioner submitted reply dated 26.12.2015 (Annexure P-9) to the demand notice dated 23.12.2015 (Annexure P-8) to respondent No.3, but no action has so far been taken thereon. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has submitted reply dated 26.12.2015 (Annexure P-9) to the earlier demand notice dated 23.12.2015 (Annexure P-8) to respondent No.3, but no response has been received till date.

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 reply dated 26.12.2015 (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 one week from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

May 1, 2017 **(RAMENDRA JAIN)**
gbs **JUDGE**

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**