IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9858 of 2017
Decided on : 31.07.2017

M/s BPTP Ltd.

. . . Petitioner(s)

Versus

The State of Haryana and another

. . . Respondents

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

PRESENT: Mr. Puneet Aggarwal, Advocate,
Mr. Abhishek Boob, Advocate and
Mr. Rohit Gupta, Advocate
for the petitioner(s).

Ms. Mamta Singla Talwar, DAG, Haryana.

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AJAY KUMAR MITTAL, J. (Oral)

This order shall dispose of CWP Nos. 9858, 9836, 9852 & 9854 of 2017, as according to the learned counsel for the petitioner(s), the issue involved therein is identical.

2. Separate written statements on behalf of respondents No.1 and 2 in CWP Nos. 9858 & 9852 of 2017 have been filed in Court today and the same are taken on record, subject to all just exceptions.

3. Learned State counsel submits that the preliminary objections taken in the aforesaid two written statements would also govern fate of CWP Nos. 9836 and 9854 of 2017 as well, as the order impugned in all the four writ petitions are identical. However, the relevant facts are being extracted from CWP No. 9858 of 2017.

4. In this writ petition filed under Articles 226/227 of the Constitution of India, the challenge has been laid to the notice dated 24th January, 2017 (Annexure P-4). The challenge has also been laid to the

order dated 30th January, 2017 (Annexure P-6) partially to the extent there are certain observations noticed against the petitioner, whereas, the respondent-authorities have failed to decide all the issues/objections raised by the petitioner vide letter dated 27th January, 2017 (Annexure P-5).

5. Learned State counsel referred to the preliminary objection to emphasize 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."*

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

7. 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 adjudicated in the matter. Therefore, we refrain from exercising jurisdiction under Articles 226/227 of the Constitution of India at this stage and relegate the petitioner(s) to avail the alternative remedy by approaching the Excise and Taxation Commissioner, Haryana. Accordingly, the writ petitions are disposed of with liberty to the petitioner(s) to file the representation(s) 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 representations are filed by the petitioner(s), 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(s) and by passing a speaking order, in accordance with law.

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

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

July 31, 2017
J.Ram

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