IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 12782 of 2018
Decided on : 21.05.2018

M/s Saraswati Utpadan Pvt. Ltd.

. . . Petitioner

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

PRESENT: Mr. J.S. Bedi, Advocate, for the petitioner.

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AJAY KUMAR MITTAL, A.C.J. (Oral)

The petitioner has approached this Court under Articles 226/227 of the Constitution of India, seeking direction to the respondents to release claim of refund of the petitioner along with interest.

2. The petitioner is engaged in the business of manufacturing and trading of rubber chappal and registered under the Punjab VAT Act, 2005 (in short 'the Act of 2005') as well as CST Act. The petitioner is regularly filing the VAT returns and annual statements. As per the return for quarter ending on 31.03.2017, there is an excess input tax credit for which the petitioner is entitled for refund in terms of Section 39 of the Act of 2005. For the said purpose, the petitioner has applied on VAT-29 forms for grant of refund of ₹8,12,801/- on 23.06.2017 for the period from 01.01.2017 to 31.03.2017 and ₹15,84,387/- on 01.08.2017 for the period of 01.04.2017 to 30.06.2017 (photocopies of the same are attached as Annexure P-1), however, no action thereon has been taken so far and the petitioner is suffering without any fault. The petitioner again made a request to the respondents for taking decision on the pending refund application, as under the provisions of the Act of 2005, the same has to be decided within a period of 90 days, but all in vain. Due to

this act of the respondent officers, the petitioner is facing great hardship in running the business smoothly. In addition to this, the petitioner is also entitled for interest in terms of Section 40 of the Act of 2005. The petitioner has also submitted the reminder on 12.04.2018 (Annexure P-2) for release of refund, but the respondents have failed to take a decision on the same. As a result of which, neither the amount claimed as refund nor interest as applicable thereon has been granted to the petitioner. 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 applications in the shape of forms VAT-29 of the Act of 2005 on 23.05.2017 & 01.08.2017 (Annexure P-1) and thereafter reminder dated 12.04.2018 (Annexure P-2) to the respondents, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the averments made in the writ petition and without expressing any opinion on the merits of the controversy, we dispose of the present petition by directing respondent No.2 to take a decision on the applications dated 23.05.2017 & 01.08.2017 (Annexure P-1) and reminder dated 12.04.2018 (Annexure P-2), 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.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

May 21, 2018
J.Ram

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