IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 13062 of 2018
Decided on : 23.05.2018

S.M. Constructions

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

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

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

PRESENT: Mr. Rajesh Gupta, Advocate
for the petitioner.

****

<u>AJAY KUMAR MITTAL, A.C.J. (Oral)</u>

The petitioner has approached this Court under Article 226 of the Constitution of India, seeking direction to respondent No.2 to release the refund of ₹25,80,961/- along with interest.

2. The petitioner is a partnership firm and engaged in the business of construction works. The petitioner is registered under the Punjab Value Added Tax Act, 2005 (in short 'the Act of 2005') as well as the Central Sales Tax Act, 1956 (in short 'the Act of 1956'). The petitioner has filed the returns for the Financial Year 2016-17 along with annual statements. The petitioner while making payments deducts TDS as per Section 27 of the Act of 2005. The petitioner has to pay the advance tax on the goods purchased from outside the State of Punjab. Thus, the petitioner is entitled to ITC Input Tax Credit of the tax paid to the seller. The petitioner becomes entitled for refund in terms of Section 39 of the Act of 2005 for refund on the tax collected by the State for the period from 01.04.2016 to 30.06.2016 and 01.07.2016 to 31.03.2017. For the said purpose, the petitioner has applied on VAT-29 forms for grant of refund vide applications dated 16.06.2017 and 09.02.2018 (appended as Annexures P-2 & P-3, respectively) for ₹25,80,961/- (in total), however, no action thereon has been taken so far. The petitioner had submitted a

representation dated 19.04.2018 (Annexure P-4) for the claim of refund, but the respondents have failed to take a decision on the same. The petitioner is also entitled for interest on the refund amount under the provisions of the Act of 2005. Inspite of dealing with the claim of refund of the petitioner, the respondents are delaying the same without any plausible reason. 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 dated 16.06.2017 and 09.02.2018 (Annexures P-2 & P-3) in the shape of form VAT-29 of the Act of 2005 and thereafter moved a representation dated 19.04.2018 (Annexure P-4) 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 16.06.2017 and 09.02.2018 (Annexures P-2 & P-3) and representation dated 19.04.2018 (Annexure P-4), in accordance with law, by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of one month from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

May 23, 2018
J.Ram

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