IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-13706-2018

Date of Decision: 28.5.2018

Competent Authority-cum-Chief Administrator, Patiala Urban Planning and Development Authority, Patiala

....Petitioner.

Versus

Deputy Commissioner of Income Tax, Circle-1 (Exemptions) and others

...Respondents.

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

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

PRESENT: Ms. Rita Kohli, Senior Advocate with
Mr. Pradeep Sharma, Advocate for the petitioner.

AJAY KUMAR MITTAL, ACJ.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to release an amount of ₹ 3.68 crores to the petitioner towards loss of interest due to premature withdrawal of the FDRs and retention of money by the respondents.

2. The petitioner is a Statutory Authority created under the Punjab Laws (Special Provisions) Act, 2013 (Annexure P-1) to regularize the unauthorized colonies in the State of Punjab. The petitioner was to act as a competent authority under the said Act. State Government vide notification dated 26.6.2013 (Annexure P-2) make it compulsory for all the developers of unauthorized colonies/owners of plots/buildings in such areas to file an

application in the prescribed format for compounding/regularization of layout/plots/buildings before the competent authority within 60 days from the date of notification of the policy. On the basis of the said notification, the petitioner received various applications along with requisite funds on behalf of the State Government and the funds were deposited in Terms Deposits (Annexure P-3 Colly) with various banks for a period of one year in the name of the petitioner. The petitioner maintained its accounts with Oriental Bank of Commerce and ICICI Bank Limited in Patiala and being the nodal agency was holding an 'Escrow Account' for the Punjab Government and the collection/regularization fee received by the petitioner belonged to State Government. Respondent No.2 issued attachment order dated 18.7.2014 (Annexure P-4) to the Oriental Bank of Commerce and ICICI Bank wherein the petitioner was maintaining its term deposits in the name of the petitioner. Feeling aggrieved, the petitioner filed CWP-16162-2014 and this Court vide order dated 17.3.2015 (Annexure P-5) set aside the attached order, Annexure P-4. In pursuance thereto, the petitioner vide letter dated 9.4.2015 (Annexure P-6) requested respondent No.2 to refund a sum of ₹ 29,85,39,376.93. In response thereto, respondent No.1 vide letter dated 1.5.2015 (Annexure P-7) asked the petitioner to send certain documents. Respondent No.3 vide letter dated 11.5.2015 (Annexure P-8) submitted the requisite documents as sought for by respondent No.1. State Bank of India sent a letter dated 8.9.2015 (Annexure P-9) to respondent No.4 along with a cheque dated 8.9.2015 (Annexure P-10) amounting to ₹ 29.85 crores in favour of respondent No.3. Respondent No.3 vide its communication dated 18.9.2015 (Annexure P-11) returned the cheque dated 8.9.2015 to respondent No.2 with a request to issue cheque in favour of the petitioner instead of respondent No.3. Respondent No.3 vide letter dated 24.9.2015 (Annexure P-12) informed respondent No.1 that the related bank account had been attached by the Income Tax Department due to which respondent No.4 was not able to proceed with the suggestion of the respondents and requested respondent No.2 to release the said amount to enable respondent No.4 to get the said cheque encashed and transfer the amount to the petitioner. Respondent No.3 also mentioned in the said letter that an amount of ₹ 29,85,39,358.93 was required to be refunded whereas cheque in the amount of ₹ 29,85,00,000/- had been issued and requested for the issuance of cheque for the balance amount. Further, respondent No.3 sent a reminder dated 4.12.2015 (Annexure P-13) to respondent No.1 for the issuance of cheque for the balance amount. The petitioner vide letter dated 15.12.2015 (Annexure P-14) followed by reminder dated 26.1.2016 (Annexure P-15) requested respondent No.1 for issuance of an amount of ₹ 3,68,03,951/- against the loss of interest due to premature withdrawal of the FDRs and retention of money by the Income Tax Department from 23.7.2014 to 14.10.2015, but to no effect. Thereafter, the petitioner sent the reminder dated 26.5.2016 (Annexure P-16) to respondent No.2, but no response has been received till date. 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 a letter dated 24.9.2015 (Annexure P-12) followed by the reminders dated 4.12.2015, 28.1.2016 and 26.5.2016 (Annexures P-13, P-15 and P-16, respectively) to respondents No.1 and 2, but no action has so far been taken thereon.

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.1 to take a decision on the letter dated 24.9.2015 (Annexure P-12) followed by the reminders dated 4.12.2015, 28.1.2016 and 26.5.2016 (Annexures P-13, P-15 and P-16, respectively), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of three months from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

May 28, 2018
gbs

(TEJINDER SINGH DHINDSA)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**