IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-29705-2018

Date of Decision: 26.11.2018

Ranbir Gupta

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.**
**HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Ms. Sonia G. Singh, Advocate for the petitioner.

**AJAY KUMAR MITTAL, J.**

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing the respondents to release the interest on the deposited amount as sales tax.

2. M/s Shivam Corporation purchased cotton yarn from an exempted unit during 2000-01 and conducted sales of ₹ 3,47,06,099/- during the course of Intra State Sales. The Assessing Authority allowed the said sales as exempted sales. The Revisional Authority revised the said order vide order dated 29.5.2003 and assessed tax of ₹ 27,76,488/- under the Central Sales Tax Act, 1956 (hereinafter referred to as "the Act") at the rate of 8% without 'C' Forms. Against the order dated 29.5.2003, the petitioner filed an appeal before the Haryana Tax Tribunal (in short "the Tribunal") who remanded the case to the Revisional Authority. The Revisional

Authority revised the additional demand of ₹ 14,85,289/- on produce of 'C' Form for an amount of ₹ 3,23,60,831/-. The petitioner had deposited an amount of ₹ 19,76,500/- and vide order dated 8.1.2013, the petitioner was refunded ₹ 4,91,311/-. The petitioner filed VATAP-28-2013 against the order of the Tribunal and this Court vide order dated 23.4.2013 dismissed the said appeal. Against the order dated 23.4.2013, the petitioner filed Special Leave to Appeal (Civil) No. 19475-2013 and the Supreme Court vide order dated 8.7.2013 (Annexure P-1) granted the leave to appeal and the appeal was numbered as Civil Appeal No.5450-2013 which was ordered to be heard along with Civil Appeal No.1410-2007. Vide order dated 29.3.2016 (Annexure P-2), the Apex Court allowed both the appeals holding that in view of notification dated 4.9.1995, no tax was liable under the Act on the goods manufactured by an exempted unit holding valid exemption. In view thereof, the petitioner moved a representation dated 21.4.2016 (Annexure P-3) for refund of tax amount. Vide letter dated 3.11.2016 (Annexure P-4) approval was granted by respondent No.2 and the pay order was issued on 13.2.2017. Accordingly, the petitioner moved a representation dated 17.5.2018 (Annexure P-5) followed by a reminder dated 7.6.2018 (Annexure P-6) to respondent No.3 for interest on the deposited amount, 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 representation dated 17.5.2018 (Annexure P-5) followed by a reminder dated 7.6.2018 (Annexure P-6) to respondent No.3, 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.3 to take a decision on the representation dated 17.5.2018 (Annexure P-5), 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. It is further directed that in case the petitioner is found entitled to the interest amount, the same be paid to him within next one month in accordance with law.

**(AJAY KUMAR MITTAL)**
**JUDGE**

**November 26, 2018** **(MANJARI NEHRU KAUL)**
gbs **JUDGE**

**Whether Speaking/Reasoned** **Yes/No**

**Whether Reportable** **Yes/No**