IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-33475-2018

Date of Decision: 19.12.2018

M/s Sunbeam Auto Pvt. Ltd., Narsingpura, Gurugram

...Petitioner

Versus

Union of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE SUDIP AHLUWALIA.

PRESENT: Mr. Amar Pratap Singh, Advocate with
Mr. Rohit Gupta, 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 direction to the respondents to open the GST Portal or to accept the manually filed Tran-I enabling the petitioner to carry forward the Cenvat Credit of ₹ 5,16,561/- in Form GST Tran-I. Further, a direction has been sought to respondent No.4 to decide the representation dated 22.11.2018 (Annexure P-6) moved by the petitioner.

2. The petitioner is engaged in the business of manufacturing of Aluminium Die Casted Components, I.C. Engine Parts and Die Mould and is registered under the provisions of Central Excise Act, 1944, Finance Act, 1994 and Haryana VAT Act, 2003 as is clear from the Registration of Certificates (Annexure P-1 Colly). It availed Cenvat Credit of duty paid on purchase of Input, Capital Goods and Input Services and utilized the

same towards the payment of excise duty payable on its final products during the period from 1.4.2017 to 30.6.2017. The petitioner filed all its returns with the prescribed period including ER-1 for the month of June, 2017 and ST-3 for the period from 1.4.2017 to 30.6.2017 as is discernible from document (Annexure P-2 Colly). The petitioner was having an unutilized Cenvat Credit of ₹ 5,16,561/- as on 30.6.2017. Upon enforcing the Goods and Services Tax in India w.e.f. 1.7.2017, the petitioner migrated to the said system of taxation as is clear from the Registration Certificate dated 21.9.2017 (Annexure P-3). The petitioner filed incomplete Form GST Tran-I on 27.12.2017 (Annexure P-4). Thereafter, the petitioner filed Form Tran-I with the limited details which was accepted by the portal. The petitioner made online complaints and reminders (Annexure P-5 Colly), but to no effect. Accordingly, the petitioner moved a representation dated 22.11.2018 (Annexure P-6) to respondent No.4 for allowing it to carry forward the Cenvat Credit of ₹ 5,16,561/- lying unutilized as on 30.6.2017 duly declared in Form Tran-I filed under the provisions of GST, but no response has been received till date. Reliance has been placed upon the orders (Annexure P-7 Colly) passed by the Allahabad High Court, Uttarakhand High Court and the Gujarat High Court. 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 22.11.2018 (Annexure P-6) to respondent No.4, 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.4 to take a decision on the representation dated 22.11.2018 (Annexure P-6), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within fortnight from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

December 19, 2018 **(SUDIP AHLUWALIA)**
gbs **JUDGE**

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**