IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-37754-2018

Date of Decision: 20.12.2018

M/s Hindusthan National Glass & Industries Ltd., Bahadurgarh
...Petitioner

Versus

The State of Haryana and others
...Respondents

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

PRESENT: Mr. Sandeep Goyal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing the respondents to issue Declaration Form 'C' in respect of purchase of Natural Gas used as fuel for manufacturing of goods for sale and captive power generation for the manufacturing of taxable domestic goods. Further, a writ of certiorari has been sought for quashing the instructions dated 24.9.2018 (Annexure P-7) issued by respondent No.2 for issuance of 'C' Forms for the purchases made after 1.7.2017.

2. The petitioner is engaged in the business of manufacturing of glass containers and for the said purpose, it is purchasing natural gas from GAIL (India) Ltd. and Bharat Petroleum Corporation Limited. The natural gas purchased by the petitioner was used as fuel for manufacturing of goods and for captive power generation which is also used in manufacturing of taxable goods. As per the registration certificate (Annexure P-1 Colly), the

petitioner is registered under the Haryana VAT Act, 2003 as well as Central Sales Tax Act, 1956. The petitioner being engaged in manufacturing of taxable goods was also entitled to purchase goods for use in generation/ distribution of power. It had been procuring Form 'C' (Annexure P-2) from online utility of State of Haryana and was issuing the same to the suppliers from time to time. The Central Government brought the Taxation Laws (Amendment) Act, 2017 vide notification dated 5.5.2017 (Annexure P-3). The said Act came into force w.e.f. 1st July, 2017 as per notification dated 28.6.2017 (Annexure P-4) issued by the Government of India. The petitioner was unable to file the online quarterly returns R-1 for the period July, 2017 to June, 2018 as while uploading the return, a message was being displayed that 'there is no obligation found corresponding to this TIN Number'. Accordingly, the petitioner sent a letter dated 27.7.2018 (Annexure P-5) to respondent No.3 for issuance of 'C' Form, but to no effect. Thereafter, a letter dated 29.9.2018 (Annexure P-6) was sent to respondent No.2 for issuance of 'C' Form, but no response has been received till date. The Excise and Taxation Commissioner, Haryana, Panchkula had issued instructions dated 24.9.2018 (Annexure P-7) for issuance of 'C' Forms for the purchases made after 1.7.2017. 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 letters dated 27.7.2018 and 29.9.2018 (Annexures P-5 and P-6, respectively) to respondents No.3 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.2 to take a decision on the letters dated 27.7.2018 and 29.9.2018 (Annexures P-5 and P-6, respectively), 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)
JUDGE

December 20, 2018
gbs

(SUDIP AHLUWALIA)
JUDGE

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