IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-6353-2019

Date of Decision: 8.3.2019

M/s Datawind Innovations Pvt. Ltd., Amritsar

...Petitioner

Versus

Union of India and others

...Respondents

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

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

<u>AJAY KUMAR MITTAL,</u> 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 refund the excess Input Tax Credit (ITC) of ₹ 3,51,03,950/- for which the online applications RFD-01A dated 3.9.2018 and 12.9.2018 (Annexures P-5 to P-7, respectively) for the months of July, August and September, 2017 and subsequent reminders dated 20.9.2018 (Annexure P-13) had been moved.

2. The petitioner is a manufacturer and seller of automatic data processing machines and units thereof, like tablets and smart phones etc. It was registered in the State of Punjab having registration certificate dated 8.8.2017 (Annexure P-1). The petitioner filed its return at Amritsar for the month of July, 2017 with a total excess unutilized ITC of ₹ 2,33,75,586/- as is clear from the GSTR-3B (Annexure P-2). Similarly, the petitioner filed its return in Form GSTR-3B (Annexure P-3) for the month of August, 2017

and had an excess of ₹ 28,62,814/- after adjustment of output tax liability. For the month of September, 2017, the petitioner filed its return (Annexure P-4) and after the adjustment of output tax liability, it had an excess of ₹ 15,97,047/-. Since the petitioner was eligible for refund of ITC, it applied vide online applications in RFD-01A on 3.9.2018 and 12.9.2018 (Annexures P-5 to P-7, respectively) for the months of July, 2017 to September, 2017 as is discernible from the ARN receipts dated 3.9.2018 and 12.9.2018 (Annexures P-8 to P-10, respectively). Subsequent to the filing of the online applications, the petitioner also submitted the documents for GST Refund physically with the Assistant Commissioner, Division-II, Amritsar vide letter dated 10.9.2018 (Annexure P-11) and also submitted the necessary documents vide letter dated 18.9.2018 (Annexure P-12). Thereafter, the President and CEO of the petitioner vide email dated 20.9.2018 (Annexure P-13) requested the respondents for refund of the amount. Vide letter dated 25.9.2018 (Annexure P-14), the petitioner was informed that the refund application was required to be processed by the State GST authorities. Pursuant thereto, the petitioner submitted the documents to respondent No.4 vide letter dated 25.9.2018 (Annexure P-15). Similarly, vide letters dated 25.9.2018 (Annexures P-16 and P-17, respectively), the petitioner submitted documents for GST refund. However, the petitioner has received three deficiency memos dated 12.11.2018 (Annexure P-18 to P-20, respectively) from respondent No.4 with a direction to appear and submit the documents. In response thereto, the petitioner appeared and submitted documents, 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 moved online applications dated 3.9.2018 and 12.9.2018 (Annexures P-5 to P-7, respectively) for the months of July, August and September, 2017, 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 applications dated 3.9.2018 and 12.9.2018 (Annexures P-5 to P-7, respectively), moved by the petitioner, 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 certified copy of the order. It is further directed that in case, the petitioner is found entitled to the refund of the amount, the same be released within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

March 8, 2019 **(MANJARI NEHRU KAUL)**
gbs **JUDGE**

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No