IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-8838-2019

Date of Decision: 2.4.2019

M/s Ess Jay Enterprise

...Petitioner

Versus

State of Haryana and others

...Respondents

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

PRESENT: Mr. S.K. Yadav, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. By way of instant 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 amount of ₹ 18,01,235/- under Section 20(5) of the Haryana Value Added Tax Act, 2005 (hereinafter referred to as "the Act") along with statutory interest in terms of the order dated 13.11.2018 (Annexure P-3) passed by the Haryana Tax Tribunal (in short "the Tribunal").

2. The petitioner is engaged in the business of purchase and sale of cement and was registered under the Act having TIN 06052504031. The petitioner had filed its returns for the year 2012-13. Its case was taken up for scrutiny. The Assessing Authority vide order dated 19.2.2016 (Annexure P-1) framed the assessment under Section 15(2) of the Act resulting into refund of ₹ 24,81,540/-. The Deputy Excise and Taxation Commissioner (for brevity, "the DETC") vide order dated 2.9.2016 (Annexure P-2) passed under Section 34 of the Act, revised the assessment order dated 19.2.2016 (Annexure P-1) and reduced the refund from ₹ 24,81,540/- to ₹ 6,80,305/-. Against the order of the DETC, Annexure P-2, the petitioner filed an appeal before the Tribunal. The Tribunal vide order dated 13.11.2018 (Annexure P-3) set aside the order of the DETC.

Therefore, an amount of ₹ 18,01,235/- had become refundable to the petitioner under Section 20(5) of the Act. Accordingly, the petitioner sent an application dated 14.12.2018 (Annexure P-4) to respondent No.4 for refund of ₹ 18,01,235/- along with interest, 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 submitted the application dated 14.12.2018 (Annexure P-4) 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.3 to take a decision on the application dated 14.12.2018 (Annexure P-4), 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 refund of amount, the same be released to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

April 2, 2019 **(MANJARI NEHRU KAUL)**
gbs **JUDGE**

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No