IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-13150-2019

Date of Decision: 17.5.2019

M/s Oasis Technocons Limited, Chandigarh

...Petitioner

Versus

The Union Territory, Chandigarh and others

...Respondents

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

PRESENT: Mr. Rajesh Kumar Girdhar, 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 the excess Input Tax Credit (ITC) amounting to ₹ 1,01,689/- decided by respondent No.3 vide order dated 20.12.2018 (Annexure P-1) and claimed by the petitioner vide Form VAT-29 dated 30.1.2019 (Annexure P-2) along with interest.

2. The petitioner is a Class-I Government Contractor having TIN No. 04460035043. It filed its statutory returns. During the year 2012-13, the petitioner paid value added tax amounting to ₹ 2,48,647/- against the due tax amounting to ₹ 1,46,958/-. Therefore, the petitioner was entitled to refund of excess ITC of ₹ 1,01,689/-. The petitioner applied for refund of excess ITC and the assessing authority vide assessment order dated 20.12.2018 (Annexure P-1) found the petitioner entitled to the refund of excess ITC of ₹ 1,01,689/-. Accordingly, the petitioner applied for refund

vide Form VAT-29 dated 3.1.2019 (Annexure P-2), but to no effect. Thereafter, the petitioner served a legal notice dated 26.4.2019 (Annexure P-3) upon the respondents for refund of the excess ITC of ₹ 1,01,689/- 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 sent a legal notice dated 26.4.2019 (Annexure P-3) to the respondents, 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 legal notice dated 26.4.2019 (Annexure P-3), 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 excess ITC, the same be released to it within next one month, in accordance with law.

(AJAY KUMAR MITTAL)
JUDGE

May 17, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned **Yes/No**

Whether Reportable **Yes/No**