IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-7758-2020(O&M)
Date of Decision: 27.11.2020

M/s JMC Projects (India) Ltd. --Petitioner

Versus

State of Haryana & others --Respondents

CORAM:- HON'BLE MR.JUSTICE JASWANT SINGH.
HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Sandeep Goyal, Advocate for the petitioner.

Mr. Raman Sharma, Addl. A.G., Haryana.

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RAJESH BHARDWAJ.J

Petitioner is a company incorporated under the provisions of Companies Act, 1956 is a works contractor and undertakes civil contracts. For the purpose of sales tax the petitioner company is registered with the Assessing Authority, Gurugram vide TIN 06031821356. It has been contended that for the Assessment Year 2016-17 the petitioner filed quarterly returns in compliance with the provisions of the Haryana VAT Act, 2003 and on the same pattern for the year 2017-18. The petitioner has contended that for the Assessment Year 2016-17 the scrutiny was taken up and assessment proceedings were initiated and finally assessed vide order dated 17.7.2019 (Annexure P-1) by the Assessing Authority and an excess amount refundable was calculated to be Rs.6,28,40,204/-. This amount was refundable subject to filing of the refund application after approval of the competent authority. Similarly for the Assessment Year 2017-18 the excess amount refundable was found by the Assessing Authority to be Rs.3,02,81,880/- vide order dated 18.7.2019 (Annexure P-2) which was also refundable subject to the filing of the refund application. The petitioner has contended that the refund applications dated 20.9.2019 and 26.11.2019 were filed for the refund of aforesaid amounts. Counsel for the petitioner has relied upon the circular dated 20.7.2017 vide which respondent no.2 has issued guidelines with regard to the approval of refunds under the Haryana VAT Act, 2003 in pursuance to which the lower authority/authorities shall forward the case within 40 days from the receipt of the application for refund along with recommendations to the competent committee for the decision. He further relied upon the statutory provisions of Section 20 of the Haryana VAT Act read with Rule 41 of Haryana VAT Rules which mandate the refund to be made within a period of 60 days from the date of receipt of application failing which the dealer is entitled to interest @ 1% for the period from the date of making the application to the date when the refund is made. But despite this the respondents totally ignored the statutory provisions and kept sitting over the applications filed, without taking any decision on the same. Counsel has appended the copy of the various reminders to the respondents to take appropriate decision on the applications filed but the same made no difference. Having left with no other alternative, the petitioner company has filed the instant writ petition praying for the issuance of a Writ of Mandamus for directing the respondents to grant refund along with interest in pursuance to the applications dated 20.9.2019 and 26.11.2019.

This court vide its interim order dated 30.9.2020 had directed the State to take a decision on the applications filed for refund by the competent authority.

Court has been apprised by the counsel for petitioner that in pursuance to the interim order passed, the competent authority has decided the refund applications dated 20.9.2019 and 26.11.2019 and the orders have been further challenged before the competent authority in accordance with law.

In view of the statement made by counsel for petitioner, instant petition is rendered infructuous and hence disposed of accordingly.

(JASWANT SINGH)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

27.11.2020
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No