

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

124

**CWP-3547-2022(O&M)
Decided on : 24.02.2022**

Tata Projects Limited

....Petitioner

VS

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Monish Panda, Advocate and
Mr. Umesh Goyal, Advocate
for the petitioner.

AJAY TEWARI, J.(Oral)

1. This petition has been filed praying for quashing the Revision order dated 22.12.2019 (served on 6.10.2021) (Annexure P-5) issued by respondent No.3 for revision of the assessment order for the year 2009-10 as well as the order passed by the Commissioner whereby it was held that the action of the petitioner in opting out of the Lump Sum Tax Scheme was incorrect.

2. The contention of the learned counsel for the petitioner is that firstly, the Commissioner has wrongly read the provision and secondly, if the reading of the provision is correct, then the said provision is ultra vires. He accepts that as regard the first issue he is raising, he could have filed an appeal before the Tribunal, but as per him the Tribunal is not functional and consequently, he has been constrained to move this Court by way of writ petition.

3. Notice of motion.

4. Ms. Shruti Jain Goyal, DAG, Haryana appears and accepts notice on behalf of the respondents and has very fairly accepted that the Tribunal is yet not functional.

5. We are pained to point out that the issue regarding the functioning of the appellate Tribunal has been hanging fire for at least more than one year. Many cases were adjourned from time to time because an assurance was held out that the Tribunal is going to be made functional very early, but as mentioned above, even till date no progress has been made in that regard.

6. In the circumstances, we direct the petitioner to file an appeal along with an application for stay within 15 days from today and till such time the application for stay is considered and decided by the Tribunal, no coercive action be taken against the petitioner. It is made clear that by this course of action, the petitioner would not lose its right to challenge the vires of the provision, in case, required.

7. Petition stands disposed of in above terms.

8. Since the main case has been decided, the pending application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(PANKAJ JAIN)
JUDGE

24.02.2022
anuradha

Whether speaking/reasoned	-	Yes
Whether reportable	-	No