IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision :16.10.2023
CWP No.13007 of 2020 (O&M)

Makkar Construction Company
......Petitioner
Versus

Union Territory of Chandigarh and others
...... Respondents

CWP No.13012 of 2020 (O&M)

Makkar Construction Company
......Petitioner
Versus

Union Territory of Chandigarh and others
...... Respondents

CWP No.13045 of 2020 (O&M)

Makkar Construction Company
......Petitioner
Versus

Union Territory of Chandigarh and others
...... Respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI, JUDGE
HON'BLE MR.JUSTICE VIKRAM AGGARWAL, JUDGE

Present : Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Ajay Jagga, Addl. Standing Counsel for UT Chandigarh.

ARUN PALLI, J. (Oral):

Indisputably, the competent authority had finalized the assessment on 03.05.2018. Whereafter, the assessee moved the refund applications on 23.05.2018. For, the Revisional Authority had issued notice under Section 65 of the Punjab Value Added Tax Act, 2005 (as applicable to UT Chandigarh), the petitioner approached this Court vide CWP No.23924 of 2018, which was disposed of by the Division Bench on 12.03.2019:-

> **"The petitioner has approached this Court under Articles 226/227 of the Constitution of India, seeking a writ of *Mandamus*, for directing respondent No.2 to issue refund of Rs. 23,61,967/- along with interest on the said amount due to the petitioner.**
>
> **2. Notice of motion was issued. Short affidavit on behalf of the respondents-UT, Chandigarh has been filed wherein it has been stated that the Additional Excise and Taxation Commissioner-cum-Revisional Authority, Excise and Taxation Department, UT, Chandigarh has passed three different orders dated 26.10.2018 (Annexures R-1/5), under Section 65 of the Punjab Value Added Tax Act, 2005 (as applicable to UT, Chandigarh), vide which the following refunds have been made to the petitioner-Firm :-**

FINANCIAL YEAR	REFUND DUE & ALLOWED
2014-2015	**165509-00**
2015-2016	**688905-00**
2016-2017	**392342-00**

> **3. Learned counsel for the respondents-UT, Chandigarh submitted that the matter regarding refund of the remaining amount as claimed in the present writ petition, the petitioner is already in appeal before the VAT Tribunal.**
>
> **4. Accordingly, learned counsel for the petitioner made a prayer that he may be allowed to withdraw the present writ petition with liberty to the petitioner to take**

> **recourse to the remedies as may be available to it, in accordance with law after the appeal is decided by the VAT Tribunal.**
>
> **5. Dismissed as withdrawn. It shall, however, be open to the petitioner to take recourse to the remedies as may be available to it, in accordance with law".**

Accordingly, the petitioner approached the Tribunal by way of a revision, which was disposed of vide order dated 03.09.2019, and the matter was remitted to the Revisional Authority with certain observations/directions to revisit the issue. Whereafter, vide impugned order dated 15.06.2020 (Annexure P-9) the Revisional Authority dismissed the claim of the petitioner and assessed the assessment under Rule 15(4) of the Act. And this is how, the petitioner once again approached this Court vide this petition.

Having argued the matter at some length, learned counsel for the parties are *ad idem* that the order dated 15.06.2020, passed by the Revisional Authority is appealable under Section 65(2) of the Act. And the petitioner has conceded so even in paragraph 15 of the petition. Therefore, it is agreed between the parties that it shall be expedient/necessary if the petitioner withdraws these petitions and approach the VAT Tribunal by way of revision under Section 65(2) of the Act for the conclusive determination of the dispute.

Learned counsel for the petitioner submits that as some time, since passing of the order under challenge has elapsed, the petitioner might have to face an issue regarding delay/limitation in approaching the Tribunal.

To which, learned counsel for the respondents submits that since the petitioner had been diligently pursuing its cause before this Court, he will be entitled to benefit of Section 14 of the Limitation Act. Even otherwise, he submits that no such objection would be raised by the respondents provided the petitioner approach the VAT Tribunal within a week from today. Further, the petitioner shall be at liberty and entitled to rake up all the issues that are sought to be raised in the present *lis* before the Tribunal.

In the wake of the above, nothing substantive survives in these petitions and the same are accordingly disposed of.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

16.10.2023
Manoj Bhutani

Whether speaking/reasoned Yes/No
Whether reportable Yes/No