IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-8599-2019

Date of Decision: 1.4.2019

Nikunj Steel

...Petitioner

Versus

State of Punjab and others

...Respondents

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

PRESENT: Mr. Kumar Vishav Aggarwal, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ of mandamus directing respondent No.2 to release the goods along with Truck No. PB-13-BA-1808 as per the provisions of Sections 129(1)(a) and 130 of the Punjab Goods and Service Tax Act, 2017 (in short "the Act") and as per order dated 13.3.2019 (Annexure P-8).

2. The petitioner is in the business of trading of iron scrap from the State of Punjab and is registered under the Act vide registration certificate dated 1.1.2019 (Annexure P-1). After change of address, fresh registration certificate dated 16.2.2019 (Annexure P-2) was issued to the petitioner. The petitioner vide invoice dated 21.2.2019 (Annexure P-3) purchased iron scrap from Shri Paramhans Scrap Store. The said goods were sent to the petitioner through Levis Goods Transport Co., Malout vide

GR dated 21.2.2019 (Annexure P-4). The said goods along with tracuk were intercepted by respondent No.3 at Nabha District Patiala. Accordingly, a notice dated 22.2.2019 (Annexure P-5) was issued to the petitioner regarding the genuineness of the goods in transit and for not tendering E-way bill for goods in movement. Respondent No.2 conducted physical verification of the goods and vide report dated 22.2.2019 (Annexure P-6) found the said goods in excess. Thereafter, respondent No.2 issued a notice dated 26.2.2019 (Annexure P-7) to the petitioner for confiscation of goods under Section 130 of the Act and for levying penalty. Respondent No.2 vide order dated 13.3.2019 (Annexure P-8) ordered for confiscation of the goods under Section 130 of the Act and to deposit tax and penalty amounting to ₹ 2,82,315/-. In pursuance thereto, the petitioner deposited the tax and penalty as is clear from Form GST DRC03 dated 13.3.2019 (Annexure P-9). However, the goods were not released by respondent No.2. Accordingly, the petitioner moved a representation dated 13.3.2019 (Annexure P-10) to respondent No.2 for release of goods, 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 representation dated 13.3.2019 (Annexure P-10) to respondent No.2, 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.2 to take a decision on the representation dated 13.3.2019 (Annexure P-10), in accordance with law by passing a speaking order and after affording an

opportunity of hearing to the petitioner within a period of one week from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

April 1, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned	**Yes/No**
Whether Reportable	**Yes/No**